Barclays Official

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Title 27. Environmental Protection

Complete Title

Vol. 37

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BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

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Division 1. General Functions and Responsibilities

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TITLE 27. ENVIRONMENTAL PROTECTION

Division 1. General Functions and Responsibilities

Subdivision 0.5. Administration

Chapter 1. Conflict of Interest Code for the Office of the Secretary of the Environmental Protection Agency of California

§ 10010. General Provisions — Incorporation by Reference of Standard Conflict of Interest Code.

The Political Reform Act (Government Code Sections 81000, et. seq.) requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regulations Section 18730) which contains the terms of a standard Conflict of Interest Code which can be incorporated by reference into an agency's code. After public notice, it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated herein by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the Conflict of Interest Code of the Office of the Secretary for Environmental Protection Agency of California.

Designated employees shall file their statements with the agency who will make the statements available for public inspection and reproduction. (Government Code Section 81008). Upon receipt of the statement(s) for Agency Secretary, Chief of Staff, Undersecretary, Deputy Secretaries and Assistant Secretaries, the agency shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission. Statements for all other designated employees will be retained by the agency.

Appendix

Category I.

(I) Agency Secretary, Undersecretary, Deputy Secretaries, Assistant Secretaries, Officers, Counsels, Chiefs, Scientists, Managers, Directors, Associate Governmental Program Analysts, Agency Information Officer, members of the Hazardous Materials Appeal Board, and Consultants*.

(II) Every person in this Category must report: all sources of income, interests in real property and investments, and business positions in a business entity.

* With respect to consultants the Agency Secretary or his designee, may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and therefore is not required to fully comply with the disclosure requirements described in this section. Such written determinations shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Agency Secretary's or his designee's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

Category II.

(I) Analysts, Information Systems Technicians, and Engineers.

(II) Every person in this Category must report: all investments and business positions in business entities, and sources of income, which are subject to the regulatory, permit, or licensing authority of the California Environmental Protection Agency.

Category III.

(I) Administrative Assistants, Executive Secretaries and Executive Assistants.

(II) Every person in this Category must report: all investments and business positions in business entities, and sources of income which provide services, supplies, materials machinery or equipment of the type utilized by the California Environmental Protection Agency.

List of Designated Positions	*Disclosure Categories*
Agency Secretary	1
Undersecretary	1
Deputy Secretaries	1
Assistant Secretaries	1
Officers	1
Counsels	1
Chiefs	1
Scientists	1
Directors	1
Managers	1
Associate Governmental Program Analysts	1
Agency Information Officer	1
Board Members (i.e. Hazardous Waste Appeals Board)	1
Consultants	1
Analysts	1
Information Systems Technicians	2
Engineers	2
Administrative Assistants	3
Executive Secretaries	3
Executive Assistants	3

Category 1

All sources of income, interests in real property and investments, and business positions in business entities.

Category 2

All investments and business positions in business entities, and sources of income, which are subject to the regulatory, permit, or licensing authority of the California Environmental Protection Agency.

Category 3

Investments and business positions in business entities, and sources of income, which provide services, supplies, materials, machinery or equipment of the type utilized by the California Environmental Protection Agency.

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*With respect to consultants, the Agency Secretary, however, may determine in writing that a particular consultant, although in a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Agency Secretary's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

NOTE: Authority cited: Sections 87300 and 87306, Government Code. Reference: Sections 87300, 87301, 87302 and 87500, Government Code; and Section 18730 of Title 2, Division 6 of California Code of Regulations.

HISTORY

1. New subdivision 0.5, chapter 1 and section filed 1-10-96; operative 2-9-96. Approved by Fair Political Practices Commission 11-1-95 (Register 96, No. 2).
2. Repealer of section and new section and Appendix filed 7-23-2002; operative 8-22-2002. Approved by Fair Political Practices Commission 5-16-2002 (Register 2002, No. 30).

Chapter 2. Environmental Enforcement and Training Grant Program

Article 1. Description, Procedures, Criteria, Restrictions, and Administration

§ 10011. Scope of Article.

These regulations apply to applicants seeking Environmental Enforcement and Training Act grants under the Environmental Enforcement and Training Grant Program established by the Secretary of the California Environmental Protection Agency. The regulations in this Article provide the following as required by Penal Code section 14301:

(a) Describe procedures for applying for Environmental Enforcement and Training Act grants.

(b) Describe criteria to be used in determining which applications will be funded.

(c) Describe the administrative and fiscal requirements governing the receipt and expenditure of Environmental Enforcement and Training Act grant funds.

NOTE: Authority cited: Section 14301, Penal Code. Reference: Section 14301(b), Penal Code.

HISTORY

1. New chapter 2, article 1 (sections 10011–10018) and section filed 8–7–2003; operative 9–6–2003 (Register 2003, No. 32).

§ 10012. Definitions.

(a) The definitions contained in Section 14300(b) of the Penal Code are incorporated herein by reference.

(b) "Cal/EPA" means the California Environmental Protection Agency

NOTE: Authority cited: Section 14301, Penal Code. Reference: Section 14300(b), Penal Code.

HISTORY

1. New section filed 8–7–2003; operative 9–6–2003 (Register 2003, No. 32).

§ 10013. General Provisions.

(a) These regulations implement provisions in the Environmental Enforcement and Training Act of 2002. The Act created a potential funding source for California environmental training, investigation and enforcement activities. The Secretary has established the Environmental Enforcement and Training Grant Program to allocate and award funds, upon appropriation by the Legislature, to public agencies or private nonprofit organizations for purposes of supporting and enhancing statewide environmental enforcement and training programs for peace officers, firefighters, investigators, state and local environmental regulators, and public prosecutors pursuant to Penal Code section 14301, et seq.

(b) The Environmental Enforcement and Training Grant Program funds are derived from the Environmental Enforcement and Training Account. This Account may provide up to two million dollars ($2,000,000) annually for distribution by the Secretary, upon appropriation by the Legislature, as follows:

(1) Twenty–five percent or one hundred thousand dollars ($100,000) whichever is less to the Commission on Peace Officer Standards and Training.

(2) Twenty–five percent to the Environmental Circuit Prosecutor Project through the California District Attorney's Association.

(3) Twenty–five percent to the California District Attorneys Association.

(4) Twenty–five percent to the Secretary for discretionary grants as allowed by Penal Code commencing with sections 14306 or 14309 based on demonstrated need or in order to sustain the current level of presence and enforcement for those programs.

(c) The Secretary shall consult with the Commission on Peace Officer Standards and Training prior to providing any grant funds for peace officer education and training programs.

NOTE: Authority cited: Section 14301, Penal Code. Reference: Sections: 14300(c), 14300(d), 14301(a)(3), 14301(c), 14303(a), 14314(a), 14314(b), 14314(c) and 14314(d), Penal Code.

HISTORY

1. New section filed 8–7–2003; operative 9–6–2003 (Register 2003, No. 32).

§ 10014. Purpose of the Environmental Enforcement and Training Grant Program.

The Secretary has established the Environmental Enforcement and Training Grant Program in order to provide financial assistance for statewide enforcement and training programs to enhance enforcement of environmental laws. Under this program, the Secretary is authorized to award both mandatory and discretionary training and enforcement grants.

(a) Upon appropriation, grant funds shall be awarded by the Secretary to: 1) the Commission on Peace Officer Standards and Training; 2) the Environmental Circuit Prosecutor Project through the California District Attorney's Association; and 3) the California District Attorneys Association in accordance with the Act and these regulations.

(b) Discretionary grant funds may be awarded by the Secretary to public agencies or private nonprofit organizations and local environmental regulators in accordance with the Act and these regulations.

NOTE: Authority cited: Section 14301, Penal Code. Reference: Sections 14301(c), 14314(c), 14301(d), 14309(c)(1), 14306(a), 14307(a), 14308(a), 14308(b) and 14314(d)(1), Penal Code.

HISTORY

1. New section filed 8–7–2003; operative 9–6–2003 (Register 2003, No. 32).

§ 10015. Procedures for Applying for Discretionary Environmental Enforcement and Training Act Grants.

(a) To apply for an enforcement and training grant under this program, qualified entities must complete an application as specified by the Secretary. The application will require the following information:

(1) The organization's name, physical mailing address and post office box, telephone and fax numbers, and e–mail and web page addresses.

(2) The application must be signed by a person duly authorized by the applicant organization and provide the authorized person's telephone and fax numbers, and e–mail address.

(3) The name of the person with day–to–day responsibility for the project (if different from authorized representative) and that person's telephone and fax numbers, and e–mail address.

(4) A narrative/work plan that describes the applicant's proposed project. The narrative/work plan must contain the following information:

(A) Identify the environmental enforcement and/or training objectives to be addressed by the project.

(B) Identify the enforcement and/or training target audience.

(C) Identify the environmental statutes/acts addressed by the project.

(D) Provide a concise introduction that states the nature of the organization including documentation to support the organizations non–profit status.

(E) Identify how long the organization has been in existence.

(F) Describe how the organization has been successful in the past.

(G) Describe the environmental justice component of the program required by Section 10016(b)(3), or the reason(s) such a component is not included in the project.

(H) Provide project completion plans/time frames, and expected results.

(I) Provide a conclusion discussing how the applicant will evaluate and measure the success of the project, including the anticipated benefits and challenges in implementing the project.

(J) Provide budget figures/projections to support the work–plan narrative.

(K) Provide a succinct explanation of how the project may serve as a model in other settings.

(L) Provide an appendix with resumes of key personnel who will be significantly involved in the project, including the project lead.

(M) Provide letter(s) of commitment if your proposed project includes the significant involvement of other organizations.

NOTE: Authority cited: Section 14301, Penal Code. Reference: Sections 14301(c), 14314(c), 14301(d), 14309(c)(1), 14306(a), 14307(a), 14308(a), 14308(b) and 14314(d)(1), Penal Code.

HISTORY

1. New section filed 8–7–2003; operative 9–6–2003 (Register 2003, No. 32).

§ 10016. Eligibility, Criteria, Review and Selection Process.

(a) Eligibility.

(1) Individuals are not eligible to receive grants.

(2) Any private nonprofit or public entity may submit an application for discretionary grants.

(3) Applicants that have previously received grant funds may be eligible for future grant awards.

(4) Organizations that have not received previous grants under the Environmental Enforcement and Training Grant program may receive preference over organizations currently or previously having been authorized grant awards.

(5) Local environmental regulators may request local assistance grants to assist in the enforcement of environmental laws, based upon a showing of substantial need and a lack of other available funding sources.

(6) The Commission may seek additional grant funding based on need if the environmental law enforcement training is mandated or if there are substantial changes in the law that require it to revise its environmental law courses.

(7) Applications that propose projects that are inconsistent with the Agency's statutory authority are ineligible for funding and will not be evaluated.

(b) Criteria. The narrative/work plan will be used as the primary basis for awarding grants. The Secretary will award grants based upon the following criteria:

(1) The Secretary will consider only one application per applicant for a given project. Applicants may submit more than one application if the applications are for separate and distinct projects or activities.

(2) Every application will be evaluated based on the merit of the proposed project in comparison to other applications. Past performance may be considered during the evaluation process for those applicants who have received previous grants.

(3) California Law requires the Agency to conduct its programs in a manner that ensures the fair treatment of people of all races, cultures, and income levels including minority populations and low–income populations in the State. Receipt of grant awards will be conditioned upon the incorporation of environmental justice objectives as they relate to environmental enforcement into proposed training courses. Training courses should therefore include, as appropriate, one or more of the following components:

(A) Developing an understanding of environmental justice laws and principles.

(B) Developing targeted enforcement projects or plans benefiting communities most burdened by pollution sources or impacts.

(C) Ensuring public participation and information sharing whenever possible.

(4) Applicants may receive grants to develop a new activity or substantially improve the quality of existing programs upon a showing that the project will have a direct impact on environmental enforcement and/or training activities.

(5) The Secretary will review and consider the responsiveness of the work plan to the Agency's environmental enforcement and training objectives, the overall effectiveness of the project design, the clarity of the measures of success and the qualifications of project staff.

(c) Review And Selection Process

The Secretary will review, evaluate, and select grant recipients. Applications will be screened to ensure that they meet all requirements described in this Article.

(1) After all applications are received, the Secretary will mail acknowledgements to applicants.

(2) After the individual projects are reviewed and evaluated the Secretary will compare the applications and make final selections. Additional factors that the Secretary may take into account in the selection process include geographic and socioeconomic balance; diverse nature of the projects, cost, and projects whose benefits can be sustained after the grant is completed.

(3) Once applications have been recommended for funding, the Secretary will notify the finalist(s) in writing by mail and request additional information necessary to complete the award process, such as tax identification numbers. The finalist(s) may be required by existing law to complete additional government forms prior to receiving grant funds.

(4) Limited funding is available and the Secretary may not fund all applications.

(5) The Secretary will notify in writing by mail those applicants whose projects are not selected for funding.

(6) The decision of the Secretary concerning the discretionary grants awarded pursuant to this section is final and not subject to appeal.

NOTE: Authority cited: Section 14301, Penal Code. Reference: Section 14301(b), Penal Code; and Sections 71110(a), 71110(b) and 71110(c), Public Resources Code.

HISTORY

1. New section filed 8–7–2003; operative 9–6–2003 (Register 2003, No. 32).

§ 10017. Restrictions on Grants.

(a) Grant funds can only be used for the purposes set forth in an approved narrative/workplan, and must be consistent with the statutory authority for the award.

(b) Grant funds cannot be used for lobbying, or intervention in state or federal regulatory proceedings.

(c) Grant funds cannot be used for matching state or federal funding.

(d) State law requires all grantees to certify and assure that they will comply with all applicable state laws, regulations, and requirements before receiving funds.

NOTE: Authority cited: Section 14301, Penal Code. Reference: Section 14301(b), Penal Code.

HISTORY

1. New section filed 8–7–2003; operative 9–6–2003 (Register 2003, No. 32).
2. Change without regulatory effect amending subsection (b) filed 11–16–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 47).

§ 10018. Reporting Requirements for Grant Recipients.

(a) Grant funded projects should be completed within the time frames set out in the work plan.

(b) The recipient organization is responsible for the successful completion of the project.

(c) All recipients must submit quarterly and final reports to the Secretary within 30 days of the end of the quarter or end of the project for final reports.

(d) Unused grant funds remaining at the end of the fiscal year may be forfeited.

(e) The Secretary may require an audit or financial accounting from a grant recipient at any time.

(f) The Secretary will collect, review, and disseminate grantees' final reports, as appropriate to serve as model programs and will use the reports to develop information for mandated reports to the Governor and the Legislature.

NOTE: Authority cited: Section 14301, Penal Code. Reference: Sections 14301(b) and 14315, Penal Code.

HISTORY

1. New section filed 8–7–2003; operative 9–6–2003 (Register 2003, No. 32).

Chapter 3. Environmental Justice Small Grants Program

Article 1. Procedures and Criteria for Environmental Justice Small Grants Program

§ 10050. Purpose and Scope of Article.

The purpose of this grant program is to provide financial assistance to eligible non-profit community groups such as community-based grassroots organizations and federally recognized tribal governments, that are working on or plan to carry out projects to address environmental justice issues in areas adversely affected by environmental pollution and hazards.

(a) The regulations in this Article provide the following as required by Section 71116 of the Public Resources Code:

(1) Describe procedures for applying for the Environmental Justice Small Grant Program.

(2) Describe criteria for determining which applications shall be funded.

(3) Describe the administrative and fiscal requirements governing the receipt and expenditure of Environmental Justice Small Grant funds.

NOTE: Authority cited: Section 71116, Public Resources Code. Reference: Section 71116(b), Public Resources Code.

HISTORY

1. New chapter 3, article 1 (sections 10050–10056) and section filed 4–1–2004; operative 4–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).

§ 10051. Definitions.

For the purposes of this article, the following definitions shall apply:

(a) The definitions contained in Section 71116(c)(2) and Government Code section 65040.12 are incorporated herein by reference.

(b) "Cal/EPA" means California Environmental Protection Agency.

(c) "Secretary" means the Agency Secretary for the California Environmental Protection Agency or his or her designee(s).

NOTE: Authority cited: Section 71116, Public Resources Code. Reference: Sections 71116(c)(2) and 71116(j), Public Resources Code.

HISTORY

1. New section filed 4–1–2004; operative 4–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).

§ 10052. Grant Award.

(a) The maximum amount of a grant provided pursuant to this section is twenty thousand dollars ($20,000).

NOTE: Authority cited: Section 71116, Public Resources Code. Reference: Section 71116(i), Public Resources Code.

HISTORY

1. New section filed 4–1–2004; operative 4–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).

§ 10053. Restrictions on Environmental Justice Small Grants.

(a) The restrictions contained in section 71116(d)–(g) of the Public Resources Code are incorporated herein by reference.

(b) Grant recipients shall use the grant award to fund only the project described in the recipient's application. Recipients shall not use the grant funding to shift moneys from existing or proposed projects to activities for which grant funding is prohibited or as described in section 10053(a) above.

NOTE: Authority cited: Section 71116, Public Resources Code. Reference: Section 71116(d)–(g), Public Resources Code.

HISTORY

1. New section filed 4–1–2004; operative 4–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).

§ 10054. Grant Application Procedures.

(a) In order to receive grant funds for activities set forth under Section 71116 of the Public Resources Code, applicants shall complete an application process in accordance with the following requirements:

(1) Applicants shall submit an application and a narrative/work plan:

(A) The narrative/work plan shall describe the applicant's proposed project.

(B) The narrative/work plan shall be used as the primary basis for fund allocation. Work plans shall be submitted to the Secretary in accordance with timelines established by the Secretary.

(C) The narrative/work plan shall contain the following information:

1. Identify the environmental justice issue(s) to be addressed by the project.

2. Identify the environmental justice community/target audience.

3. Identify the program goal that the project shall meet and how it shall meet it.

4. Provide an explanation of how the project may serve as a model in other settings.

5. Provide an introduction that states the nature of the applicant's organization.

6. Identify how long the organization has been in existence.

7. Describe how the organization has been successful in the past.

8. Provide project completion plans/time frames, and expected results.

9. Provide a project description that describes how the applicant is community-based and/or plans to involve the target audience in the project.

10. Provide a conclusion discussing how the applicant shall evaluate and measure the success of the project, including the anticipated benefits and challenges in implementing the project.

11. Include an appendix with resumes of up to three key personnel who shall be significantly involved in the project, including the project lead.

12. If the proposed project includes the significant involvement of other community organizations, applicants must include letter(s) of commitment from these organizations.

13. Provide documentation to support the organization's non-profit status or proof of federal recognition of tribal status.

14. Provide budget figures/projections to justify the requested award amount.

(D) The application shall contain the following required information:

1. The organization's name, physical mailing address and post office box, telephone numbers, e-mail and web page address.

2. The application must be signed by a person duly authorized by the applicant's organization and provide the authorized person's telephone and fax numbers, and e-mail address.

3. The name of the person with day-to-day responsibility for the project (if different from authorized representative) and that person's telephone and fax numbers, and e-mail address.

NOTE: Authority cited: Section 71116, Public Resources Code. Reference: Section 71116(a)(1), Public Resources Code.

HISTORY

1. New section filed 4–1–2004; operative 4–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).

§ 10055. Eligibility, Process for Awarding Grants, and Criteria.

(a) The Secretary shall announce the availability of Environmental Justice grants on the Cal/EPA website and post a deadline of 90 days for the receipt of grant applications. Grant applications must be returned on or before the close of the 90-day application period specified in the notice. The Secretary shall review, evaluate, and select grant recipients. Applications shall be screened to ensure that the application and the projects described therein comply with all of the requirements set forth in Sections 10053–10055 in this Article, including, but not limited to, restrictions, procedures, work plan requirements and criteria, and comply with the requirements set forth in Section 71116 of the Public Resources Code. Applications shall be disqualified if any requirements are not met.

(b) If the application package is complete it shall be reviewed and evaluated by the Secretary based on the criteria outlined below:

(1) Threshold Criteria. Applications that propose projects that are inconsistent with Cal/EPA's statutory authority for this grant program or the goals for the program are ineligible for funding and shall not be evaluated. The Secretary shall notify in writing by mail those applicants whose projects are ineligible for funding.

(2) Evaluation Criteria. Proposals shall be evaluated using the following criteria:

(A) Responsiveness of the work plan to environmental justice issues.

(B) Effectiveness of the project design.

(C) Clarity of the measures of success.

(D) Qualifications of project staff.

(c) The Secretary may consider only one application per applicant for a given project. Applicants may submit more than one application if the applications are for separate and distinct projects. Applicants that previously received grant funds may submit an application for future grants.

(d) The Secretary may give preference to organizations that have not received previous grants under the Cal/EPA Environmental Justice Small Grants Program.

(e) Every application shall be evaluated based on the merit of the proposed project in comparison to other applications. Past performance may be considered during the evaluation process for those applicants who have received previous grants under the Cal/EPA Environmental Justice Small Grants Program.

(f) The Secretary shall compare all applications eligible for funding and make final selections after the individual projects are reviewed and evaluated. Additional factors that the Secretary may take into account in the selection process include geographic and socioeconomic balance; cost, and projects whose benefits can be sustained after the grant is completed.

(g) After all applications are received, the Secretary shall mail acknowledgments to all applicants. Once applications have been approved for funding, the Secretary shall notify the finalist(s) and request additional information in existing law necessary to complete the award process such as tax identification numbers. The Secretary shall notify in writing by mail those applicants whose projects are not selected for funding.

(h) The decisions of the Secretary concerning grant funding are final and not subject to appeal.

(i) State law requires all grantees to certify and assure that they shall comply with all applicable state laws, regulations, and requirements before receiving funds.

NOTE: Authority cited: Section 71116, Public Resources Code. Reference: Sections 71116 and 71116(a)(1), Public Resources Code.

HISTORY

1. New section filed 4–1–2004; operative 4–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).

§ 10056. Project Period and Final Reports.

(a) Grant funded projects shall be completed and funds spent within the time frame specified in the grant award.

(b) The recipient organization is responsible for the successful completion of the project.

(c) Unless specified in the award, all recipients must submit quarterly reports to the Secretary within 30 days of the end of the quarter.

(d) All grant recipients shall submit final reports to the Secretary for approval within ninety (90) days of the end of the project period. Each final report shall include, at a minimum: (1) summary of the expenditures of the grant funds; and (2) the results of the project including a description of the benefits achieved by the project as compared to the measures of success that the applicant included in its application.

(e) The Secretary shall collect, review, and disseminate grantee's final reports to serve as model programs.

(f) The Secretary may require an audit or financial accounting from a grant recipient at any time.

(g) Any funds not used during the project period shall be forfeited.

NOTE: Authority cited: Section 71116, Public Resources Code. Reference: Section 71116(a)(2), Public Resources Code.

HISTORY

1. New section filed 4–1–2004; operative 4–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).

Subdivision 1. Permitting

Chapter 1. Definitions

§ 10100. Consolidated Permit Definitions.

(a) "Applicant" means a person who applies to an environmental agency for a permit, registration, certification, or permission to take specific action pursuant to the provisions of this division.

(b) "Comprehensive risk assessment" means, for the purpose of sections 10200 and 10201, a quantitative estimate of risk to human health and the environment that provides for both acute and chronic effects that could occur now and in the future. The assessment is conducted for all chemicals at the facility of potential concern. The assessment is based on a theoretical daily dose a human or non–human receptor would receive by all exposure routes.

(c) "Consolidated permit" means a permit incorporating the environmental permits granted by environmental agencies for a project and issued in a single permit document by the consolidated permit agency.

(d) "Consolidated permit agency" means the environmental agency that has the greatest overall jurisdiction over a project.

(e) "Consolidated permit application form" means a form, as authorized by subsection (e) or (f) of section 15399.56 of the Government Code, that can be used in lieu of separate application forms for each component environmental permit that would be provided by the consolidated permit agency and the participating permit agencies.

(f) "Consolidated permit notification" is a form used by an applicant to notify the Secretary of the applicant's request to have a consolidated permit issued for the applicant's project.

(g) "Council" means the California Environmental Policy Council. The council consists of the following members or their designees:

(1) The Secretary for Environmental Protection.

(2) The Director of Pesticide Regulation.

(3) The Director of Toxic Substances Control.

(4) The Chairperson of the State Air Resources Board.

(5) The Chairperson of the State Water Resources Control Board.

(6) The Director of the Office of Environmental Health Hazard Assessment.

(7) The Chairperson of the California Integrated Waste Management Board.

(h) "Environmental agency" means any of the following:

(1) The Department of Toxic Substances Control, the Department of Pesticide Regulation, the State Air Resources Board, the State Water Resources Control Board, the California Integrated Waste Management Board, the Office of Environmental Health Hazard Assessment.

(2) A California regional water quality control board.

(3) A district, as defined in section 39025 of the Health and Safety Code.

(4) An enforcement agency, as defined in Section 40130 of the Public Resources Code.

(5) A county agricultural commissioner with respect to his or her administration of Division 6 (commencing with Section 11401) and 7 (commencing with Section 12501) of the Food and Agricultural Code.

(6) The local agency responsible for administering Chapter 6.7 (commencing with Section 25280) of the Health and Safety Code concerning underground storage tanks and any underground storage tank ordinance adopted by a city or county.

(7) The local agency responsible for the administration of the requirements imposed pursuant to Section 13370.5 of the Water Code.

(8) Any other state, regional, or local permit agency for the project that participates at the request of the permit applicant upon the agency's agreement to be subject to this division.

(i) "Environmental Permit" means any license, certificate, registration, permit, or other forms of authorization, to include remedial action authorizations, required by an environmental agency to engage in a particular activity. "Environmental permit" includes, but is not limited to, activities subject to Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, if the activities are under the jurisdiction of an environmental agency. "Environmental permit" does not include any certification or decision for the purpose of the California Environmental Quality Act pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(j) "Good cause" has the same meaning as defined in Section 15376, subdivision (h), of the Government Code.

(k) "Greater overall jurisdiction" means the environmental agency that has the greatest authority over the project due to statutory requirements, regulatory requirements, or requirements pertaining to the protection of human health and the environment.

(*l*) "Local environmental agency" means any of the following:

(1) A district, as defined in section 39025 of the Health and Safety Code.

(2) An enforcement agency, as defined in Section 40130 of the Public Resources Code.

(3) A county agricultural commissioner with respect to his or her administration of Division 6 (commencing with Section 11401) and 7 (commencing with Section 12501) of the Food and Agricultural Code.

(4) The local agency responsible for administering Chapter 6.7 (commencing with Section 25280) of the Health and Safety Code concerning underground storage tanks and any underground storage tank ordinance adopted by a city or county.

(5) The local agency responsible for the administration of the requirements imposed pursuant to Section 13370.5 of the Water Code.

(6) Any other regional or local permit agency for the project that participates at the request of the permit applicant upon the agency's agreement to be subject to this division.

(m) "Participating permit agency" means an environmental agency, other than the consolidated permit agency, that is responsible for the issuance of an environmental permit for a project.

(n) "Petitioner" means any individual, trust, joint stock company, business concern, corporation, including, but not limited to, a government corporation, partnership and association. "Petitioner" also may include any city, county, district, commission, the State or any department, agency, or political subdivision thereof, any interstate body, the Federal Government or any department or agency thereof to the extent permitting by law.

(o) "Project" means an activity, the conduct of which requires an environmental permit from two or more environmental agencies.

(p) "Remedial action" has the same meaning as defined in subdivision (g) of Section 25260 of Division 20 of the Health and Safety Code.

(q) "Secretary" means the Secretary for Environmental Protection.

(r) "State environmental agency" means any of the following:

(1) The Department of Toxic Substances Control, the Department of Pesticide Regulation, the State Air Resources Board, the State Water Resources Control Board, the California Integrated Waste Management Board, the Office of Environmental Health Hazard Assessment.

(2) A California regional water quality control board.

(3) Any other state permit agency for the project that participates at the request of the permit applicant upon the agency's agreement to be subject to this division.

NOTE: Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Sections 71010, 71011, 71012, 71013, 71014, 71015, 71016 and 71017, Public Resources Code.

HISTORY

1. New subdivision 1, chapter 1 and section filed 7–12–95; operative 8–11–95 (Register 95, No. 28).

Chapter 2. Consolidated Permits

§ 10200. Procedure to Request a Consolidated Permit.

The consolidated permit applicant shall complete a consolidated permit notification in order to be considered for a consolidated permit. The notification must include, at a minimum, all of the following:

(a) a description of the project to include:

(1) name of the applicant;

(2) name of the business;

(3) location of the facility;

(4) description of the activities being permitted at the facility; and

(5) applicable SIC codes.

(b) a preliminary list of environmental permits that may be required for the project;

(c) a list of any additional permits pursuant to Section 71011(h) of the Public Resources Code;

(d) the identity of any public agency that has been designated a lead agency for the purpose of the Permit Streamlining Act, Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code;

(e) the identity of any public agency that has been designated a lead agency for the purpose of the California Environmental Quality Act pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code;

(f) the name of the environmental agency that the applicant believes to have the greatest overall jurisdiction for the project;

(g) if applicable, the names of any environmental agencies that the applicant does not want to be the consolidated permit agency;

(h) if applicable, the name of the environmental agency that the applicant wants to be the consolidated permit agency;

(i) the name and telephone number of the permit agencies that administer the permits listed in (b) and (c);

(j) if a Comprehensive Risk Assessment has been completed for the project, the findings are to be included with the notification; and

(k) any additional information deemed necessary by the Secretary to facilitate selection of the consolidated permit agency.

NOTE: Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Sections 71020 and 71021, Public Resources Code.

HISTORY

1. New chapter 2 and section filed 7–12–95; operative 8–11–95 (Register 95, No. 28).

[The next page is 103.]

§ 10201. The Consolidated Permit Agency Designation Process.

(a) The Secretary will designate the consolidated permit agency within 30 days of the date that the notification is received. The Secretary is then responsible for notifying the environmental agency of the decision on the same day that the environmental agency is designated as the consolidated permit agency. The Secretary will select the consolidated permit agency according to the following priority:

(1) If an agency is designated lead by the CEQA process pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, that agency will be the consolidated permit agency;

(2) If an agency is designated a lead agency for the purpose of the Permit Streamlining Act, Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, that agency will be designated as the consolidated permit agency;

(3) If the first or second priorities do not apply, the Secretary will select the environmental agency that the Secretary judges to have the greatest overall jurisdiction over the project, to be the consolidated permit agency. The Secretary will consider the following factors:

(A) the types of facilities or activities that make up the project;

(B) the types of public health and safety and environmental concerns that should be considered in issuing environmental permits for the project;

(C) the environmental medium that may be affected by the project, the extent of those potential effects, and the environmental protection measures that may be taken to prevent the occurrence of, or to mitigate, those potential effects;

(D) the regulatory activity that is of greatest importance in preventing or mitigating the effects that the project may have on public health and safety or the environment, such as evaluating comparable risks associated with the project;

(E) a comprehensive risk assessment, if applicable;

(F) the statutory and regulatory requirements that apply to the project;

(G) the geographical location of the project;

(H) the available resources of the environmental agency to carry out the responsibilities of the Consolidated Permit Agency; and

(I) the application submitted pursuant to Health and Safety Code section 25262(b), if applicable, and the reason, if known, that an Administering Agency was not selected pursuant to Health and Safety Code Section 25262(c).

(b) If the environmental agency that was initially designated as the consolidated permit agency declines the designation, the environmental agency will be relieved of all obligations associated with that designation as of the date of receipt of their refusal by the Secretary. When the Secretary receives the refusal, the Secretary will then refer the project to the Council for the designation of a consolidated permit agency. If the council decides to designate the original agency that declined the designation, that agency shall then again be responsible for all obligations associated with being the consolidated permit agency.

NOTE: Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Sections 71020 and 71021, Public Resources Code.

HISTORY

1. New section filed 7–12–95; operative 8–11–95 (Register 95, No. 28).

§ 10202. Referral to Council.

For any issue that is referred to the council, the council's decision will be by majority vote of those council members present, after consideration of all relevant information relating to the project. The council will have 45 working days upon receiving the referral to evaluate the referral, make a determination, and notify the Secretary of the council's decision. The Secretary will then have 15 working days to inform the environmental agency of its designation as the consolidated permit agency.

NOTE: Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Section 71020, Public Resources Code.

HISTORY

1. New section filed 7–12–95; operative 8–11–95 (Register 95, No. 28).

§ 10203. Consolidated Permit Agency Responsibilities.

The consolidated permit agency shall do the following:

(a) Upon being selected as the consolidated permit agency, the consolidated permit agency will contact, within 5 working days of being designated the consolidated permit agency, the applicant and all environmental permit agencies that have been identified by the applicant as being participating permit agencies, as defined in Section 71016 of the Public Resources Code. The consolidated permit agency will inform the applicant and the participating permit agencies of the time, date, and location of the meeting required by Section 71022 of the Public Resources Code.

(b) ensure that the permit applicant has all of the information needed to apply for all of the permits that will be required for the project, which shall include at a minimum the following:

(1) conduct a preapplication meeting with the applicant and participating agencies;

(2) any guidance documents from participating permit agencies;

(3) permit applications. The consolidated permit agency will inform the applicant at the meeting that the applicant has the choice of using either the permit applications that are supplied by the participating permit agencies or the applicant can use a consolidated permit application form;

(4) schedules for technical review;

(c) coordinate the review of all participating agency permits. The consolidated permit agency shall coordinate review among the participating agencies through:

(1) informal agreements between agencies that specify agency responsibilities as a participating permit agency;

(2) establishment of time lines;

(3) agreed upon action plans;

(d) ensure that permit decisions are made in a timely manner by all of the participating permit agencies. This shall be accomplished by:

(1) ensuring that the participating permit agencies identify and request any additional information needed to complete the application within 30 days of the receipt of the permit application by the participating permit agency;

(2) coordinating the dates of any hearings that may be required. The permitting agency requiring the hearing will be responsible for conducting the hearing. The consolidated permit agency will only participate in the hearing if requested by the permitting agency;

(e) assist in promptly resolving any conflicts or inconsistencies that may arise during the course of the project. This shall be accomplished in any of the following ways:

(1) the participating permit agencies shall formally identify to the consolidated permit agency any conflict or inconsistency among environmental permit requirements and conditions within 30 working days of discovering a problem;

(2) hold and facilitate meetings of all involved parties to resolve conflict or inconsistency within 15 working days of the date that the consolidated permit agency was formally notified of the problem; or

(3) for conflicts or inconsistencies that cannot be resolved by the consolidated permit agency, the directors, or their designees, of the agencies in conflict shall meet and resolve the conflict.

(f) During the consolidated permit process but after the initial meeting, if an additional environmental permit is identified as being required for the project, that environmental agency responsible for issuing that permit shall be contacted by the consolidated permit agency and informed of that environmental agency's designation as a participating permit agency. This newly identified agency shall supply any required applications and guidance documents to the applicant within 10 working days of being contacted by the consolidated permit agency.

(g) The consolidated permit agency shall compile all participating permit agency permits as well as the consolidated permit agency's own permit, into a consolidated permit. The consolidated permit agency shall issue the consolidated permit to the applicant within 30 days of the date the last participating permit agency permit is issued.

(h) The participating permit agency is responsible for the technical review of that agency's permit renewals and/or permit modifications. The applicant will submit any permit renewal requests and/or permit modification requests directly to the participating permit agency responsible for that permit. The participating permit agency will then supply any approved permit modifications and renewals to the consolidated permit agency within 30 days of approval of each permit. The consolidated permit agency is then responsible for incorporating all modifications and renewals of the environmental permits into the consolidated permit. The consolidated permit agency shall then send a copy of the consolidated permit to the applicant.

(i) The consolidated permit agency shall keep the consolidated permit on file at the consolidated permit agency's office. The consolidated permit agency shall handle all review requests for the consolidated permit.

(j) The consolidated permit agency is responsible for tracking statutory and regulatory time limits.

(k) The consolidated permit process shall not be construed to limit or abridge the powers and duties granted to a participating permit agency pursuant to the law that authorizes or requires the agency to issue an environmental permit for the project. Each participating permit agency shall retain its authority to make all decisions on all nonprocedural matters with regard to the respective component environmental permit that is within its scope of its responsibility, including, but not limited to, the determination of environmental permit application completeness, environmental permit approval or approval with conditions, or environmental permit denial. The consolidated permit agency may not substitute its judgement for that of a participating permit agency on any such nonprocedural matters.

NOTE: Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Sections 71021, 71022 and 71024, Public Resources Code.

HISTORY

1. New section filed 7–12–95; operative 8–11–95 (Register 95, No. 28).

§ 10204. Meeting Agenda.

The consolidated permit agency shall convene a meeting within 15 working days of the date of designation as consolidated permit agency. The permit applicant and all participating permit agencies shall participate in the initial meeting. At a minimum, the following matters shall be on the meeting agenda:

(a) Attempt to identify any permits that are required for the project. There will be no penalty to the consolidated permit agency or participating permit agencies if they fail to identify any required additional permits;

(b) Discussion of the application forms and any other requirements of the consolidated permit agency and the participating permit agencies;

(c) The consolidated permit agency and each participating permit agency shall disclose to the applicant the established time limits that the agencies shall meet for issuing their environmental permits.

(d) A determination of time schedules noting, at a minimum, the following dates:

(1) dates that the completeness reviews for each permit application will be complete;

(2) dates that the technical reviews for each permit application will be complete;

(3) dates of final permit decisions for each participating agency;

(4) estimated dates of any public hearings that are required to issue permits for the project;

(5) date the consolidated permit agency will complete and issue the consolidated permit.

(e) a discussion of any relevant fees required by any participating permit agency including an estimate of the fees by the consolidated permit agency to cover the costs of performing the consolidated permit services;

(f) all participating permit agencies and the consolidated permit agency are each responsible for meeting any permit processing time schedule agreed to by that agency at the initial meeting.

(g) The permit agencies shall not adopt accelerated time schedules that would be inconsistent with or in conflict with the requirements of section 71022(a)(4) of the Public Resources Code.

(h) If the applicant is unable to attend meetings, fails to attend meetings, or fails to supply requested information, all time limits shall be tolled. The time limits will be tolled until such time as the applicant performs the required task. If the applicant fails to supply the required information, the consolidated permit agency may terminate the consolidated permit process.

NOTE: Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Section 71022, Public Resources Code.

HISTORY

1. New section filed 7–12–95; operative 8–11–95 (Register 95, No. 28).

§ 10205. Participating Permit Agencies.

(a) Upon being notified of the meeting required by Section 71022 of the Public Resources Code, the participating permit agency is responsible for participating in the initial meeting

(b) At the meeting, representative of the participating permit agency shall identify to the applicant any required permits that the participating permit agency requires for the project. The participating permit agency representative will then ensure that the required permit applications and guidance documents are supplied to the applicant.

(c) Each participating permit agency shall retain its authority to make all decisions with regard to the determination of the participating permit agency's permit as per section 71021(d) of the Public Resources Code. This authority includes decisions regarding modifications, renewals, and revocations of permits. Thus, the participating permit agency can issue its permit decision at any time during the consolidated permit process.

(d) Upon making a permit decision for the project, the participating permit agency shall send a copy of the permit decision, including a copy of any environmental permits issued for the project, to the consolidated permit agency for incorporation by the consolidated permit agency into the final consolidated permit document.

(e) A participating permit agency is only removed from the consolidated permit process when either of the following occurs;

(1) The participating permit agency is removed from the consolidated permit process at the request of the applicant pursuant to Section 71023(b) of the Public Resources Code; or

(2) when the participating permit agency has completed both of the following;

A. has responded to any public comments received during the Public Review and Participation Section (c); and,

B. the participating permit agency issues its permit decision.

C. the participating permit agency has provided all written comments received, any responses to those comments, and its permit decision to the consolidated permit agency.

NOTE: Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Sections 71021, 71022, 71023, 71024 and 71025, Public Resources Code.

HISTORY

1. New section filed 7–12–95; operative 8–11–95 (Register 95, No. 28).

§ 10206. Public Review and Participation.

A summary of all decisions made pursuant to the consolidated permit for the project shall be made available for public review and comment upon the filing of the consolidated permit application form or the permit applications.

(a) The consolidated permit agency shall make the summary available for public review and comment by the following methods:

(1) Mailing a copy of the summary to the following persons:

A. the applicant;

B. any other agency which has issued or is issuing a permit for the same project or activity; and

C. any other interested parties.

(2) Copies available at the offices of the consolidated permit agency and all participating permit agencies.

(3) Issuing a public notice of the summary. The public notice shall include;

A. Name of the applicant;

B. Location of the project;

C. Brief description of the project;

D. The name and address of the consolidated permit agency;

E. Procedure for the public to get a copy of the summary; and

F. Any additional information deemed necessary by the consolidated permit agency.

(b) The public will have 30 days from the date that the public notice is issued to send comments concerning the summary to the consolidated permit agency.

(c) The consolidated permit agency shall respond to all public comments about the summary within 30 days of receipt.

NOTE: Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Section 71022, Public Resources Code.

HISTORY

1. New section filed 7–12–95; operative 8–11–95 (Register 95, No. 28).

§ 10207. Withdrawal of Permit Application.

(a) The permit applicant may withdraw from the consolidated permit process by submitting to the consolidated permit agency a written request, at any time until the consolidated permit is issued, that the process be terminated.

(1) Within 15 working days of receiving the request to withdraw, the consolidated permit agency shall notify the Secretary and each participating permit agency in writing that a consolidated permit is no longer applicable to the project.

(2) The consolidated permit agency shall notify the applicant within 60 days of any costs incurred on the project while carrying out the services as a consolidated permit agency.

(b) Withdrawal of a participating permit agency at the applicant's request. The permit applicant may submit a written request to the consolidated permit agency that the permit applicant wishes a participating permit agency to withdraw from participation on the basis of a reasonable belief that the issuance of a consolidated permit would be accelerated if the participating permit agency withdraws.

(1) The request to remove a participating permit agency shall consist of the following:

A. Name of the applicant;

B. Location of the project;

C. Name of the participating permit agency to be withdrawn from the consolidated permit process; and

D. The reason that the applicant believes that the removal of the participating permit agency from the consolidated permit process will accelerate the issuance of the consolidated permit.

(2) Upon receiving the request to remove the participating permit agency, the consolidated permit agency shall review the request and do one of the following;

A. If the consolidated permit agency agrees with the applicants request, the consolidated permit agency shall notify the applicant and the participating agency in writing, within 15 working days that the participating permit agency has been removed from the consolidated permit process. The removed participating permit agency's permit will no longer be a part of the consolidated permit.

B. If the consolidated permit agency disagrees with the removal request, the consolidated permit agency shall respond, in writing to the applicant within 15 working days, stating the reasons why the consolidated permit agency will not approve the removal request.

NOTE: Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Section 71023, Public Resources Code.

HISTORY

1. New section filed 7–12–95; operative 8–11–95 (Register 95, No. 28).

§ 10208. Fees.

(a) A consolidated permit agency may charge and collect additional fees pursuant to 71026 of the Public Resources Code.

(b) In the event that the consolidated permit process is terminated prior to the issuance of a consolidated permit, the consolidated permit agency may charge a fee to recover the costs incurred in executing the duties of the consolidated permit agency prior to the termination of the process.

NOTE: Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Section 71026, Public Resources Code.

HISTORY

1. New section filed 7–12–95; operative 8–11–95 (Register 95, No. 28).

§ 10209. Petitions for Review.

The permit applicant may petition for review of an environmental agency action in issuing, denying, or amending an environmental permit, or any portion of a consolidated permit agency permit.

(a) The petition shall be submitted by the permit applicant to the consolidated permit agency or the participating permit agency having jurisdiction over that portion of the consolidated permit and shall be processed in accordance with the procedures of that environmental agency.

(1) if the consolidated permit agency receives a petition for review of another agency's permit decision, the consolidated permit agency shall forward the petition to the participating permit agency that has jurisdiction over that portion of the consolidated permit within 5 working days of receipt of the petition.

(2) the petition shall be processed in accordance with the procedures of the environmental agency that has jurisdiction for that portion of the consolidated permit being appealed.

(b) The environmental agency receiving the petition shall, within 30 days, notify the other environmental agencies participating in the original consolidated permit.

(c) The petition shall include a statement of the reasons supporting that review and any other requirements of that environmental agency.

NOTE: Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Section 71027, Public Resources Code.

HISTORY

1. New section filed 7–12–95; operative 8–11–95 (Register 95, No. 28).

§ 10210. Amendments and Modifications.

10210(a) A permit applicant may petition a participating permit agency for an amendment or modification to that agency's permit application. The participating permit agency will contact the consolidated permit agency within 15 days of receiving the petition and inform the consolidated permit agency of the content of the petition. If an applicant chooses to petition, the petition must be filed with the participating permit agency before any of the permit decisions are made and the permits for the project are granted.

(b) If the consolidated permit agency believes that the requested amendment or modification will cause other agencies participating in the consolidated permit process to modify their actions and permit processing time limits agreed upon at the initial meeting, the consolidated permit agency shall reconvene a meeting of the effected participating permit agencies within 15 days of discovering the problem. The requirements to amend or modify a permit application shall be in accordance with the procedures of the consolidated permit agency or participating agency that has jurisdiction over the portion of the consolidated permit application or component application being amended or modified.

NOTE: Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Section 71028, Public Resources Code.

HISTORY

1. New section filed 7–12–95; operative 8–11–95 (Register 95, No. 28).

TABLE 1
SUMMARY OF CHAPTER 3, ARTICLE 1, ENVIRONMENTAL PERMIT TIMELINES

Note: This table provides general summary information only; see appropriate section of the text for regulatory language and conditions of applicability.

DEPARTMENT	PERMIT/ AUTHORIZATION	SECTION	TIME TO PROCESS PERMITS
Department of Toxic Substances Control	Hazardous Waste Facility Permit (responsible agency for land disposal facility project)	10300(b)	1 Year
Department of Toxic Substances Control	Hazardous Waste Facility Permit (responsible agency for non-land disposal facility project)	10300(c)	180 Days
Department of Toxic Substances Control	Lead agency for development project requiring EIR	10300(d), (e)	1.5 Years
Department of Toxic Substances Control	Lead agency for development project requiring NEG DEC	10300(f), (g)	195 Days
Department of Toxic Substances Control	Hazardous Waste Hauler Registration	10300(h)	14 Days
Department of Toxic Substances Control	Variances	10300(i), (j)	180 Days
Department of Pesticide Regulation	Qualified Applicator Certificate	10301(a)	100 Days
Department of Pesticide Regulation	Agricultural Pest Control Adviser License	10301(b)	100 Days
Department of Pesticide Regulation	Agricultural Pest Control Adviser License Renewal	10301(c)	60 Days
Department of Pesticide Regulation	Qualified Applicator License	10301(d)	90 Days
Department of Pesticide Regulation	Designated Agent License	10301(e)	90 Days
Department of Pesticide Regulation	Designated Agent License Renewal	10301(f)	30 Days
Department of Pesticide Regulation	Pest Control Pilots License	10301(g)	30 Days
Department of Pesticide Regulation	Pest Control Pilots License Renewal	10301(h)	30 Days
Department of Pesticide Regulation	Accreditation of Continued Education Instruction	10301(i)	30 Days
Department of Pesticide Regulation	Certificate of Registration for Economic Poisons for New Active Ingredient	10301(j)	150 Days

TABLE 1
SUMMARY OF CHAPTER 3, ARTICLE 1,
ENVIRONMENTAL PERMIT TIMELINES (cont.)

DEPARTMENT	PERMIT/ AUTHORIZATION	SECTION	TIME TO PROCESS PERMITS
Department of Pesticide Regulation	Certificate of Registration for Economic Poisons for New Product	10301(k)	90 Days
Department of Pesticide Regulation	Certificate of Registration for Economic Poisons for Renewal	10301(*l*)	60 Days
State Water Resources Control Board & Regional Water Quality Control Boards	Waste Discharge Requirements	10302(b)	120 Days
State Water Resources Control Board & Regional Water Quality Control Boards	General Industrial Storm Water Permit	10302(c)	7 Days
State Water Resources Control Board & Regional Water Quality Control Boards	Wastewater Treatment Plant Operators Certificate of Competence	10302(d)	30 Days
California Integrated Waste Management Board	Full Solid Waste Facilities Permit	10303(a)	120 Days
California Integrated Waste Management Board	Standardized Solid Waste Facilities Permit	10303(b)	75 Days
California Integrated Waste Management Board	Registration Solid Waste Facilities Permit	10303(c)	30 Days
California Integrated Waste Management Board	Waste Tire Facility Permit	10303(d)	180 Days 1 Year (If lead agency.)
California Integrated Waste Management Board	Used Oil Collection Center Certifications	10303(e)	45 Days
California Integrated Waste Management Board	Used Oil Recycling Incentive Payment Registrations	10303(f)	45 Days
Air Resources Board	Emergency Variance for Sulfur in Gasoline or Diesel	10304(b)(1)	10 Days
Air Resources Board	Approval of Independent Testers	10304(b)(2)	90 Days
Air Resources Board	All Other Permits	10304(a)	90 Days

Chapter 3. Environmental Permits

Article 1. State Environmental Permit Processing Timelines

§ 10300. Department of Toxic Substances Control.

For the Department of Toxic Substances Control (DTSC), Title 22, California Code of Regulations, Sections 66263.11 and 66260.21; Section 25199.6 of the Health and Safety Code; Section 65950, Government Code establish the following time limits which have been summarized for informational purposes in Table 1:

(a) DTSC shall review for administrative completeness each hazardous waste facility permit application and notify the applicant whether the application is administratively complete within 60 days of receipt. If the application is incomplete, DTSC shall require the applicant to provide information necessary to make the application complete. An application is not deemed to be complete until DTSC notifies the applicant that the application is administratively complete.

(b) If DTSC is acting as a responsible agency under the California Environmental Quality Act and the hazardous waste project is a land disposal facility, DTSC must approve or disapprove the permit:

(1) Within one year from the date on which the lead agency approved or disapproved the project; or

(2) Within one year from the date on which the completed application for the project has been received and accepted as technically complete, whichever is longer.

(c) If DTSC is acting as a responsible agency under the California Environmental Quality Act and the hazardous waste project is not a land disposal facility, DTSC must approve or disapprove the permit:

(1) Within 180 days from the date on which the lead agency approved or disapproved the project; or

(2) Within 180 days from the date on which the completed application for the project has been received and accepted as technically complete, whichever is longer.

(d) If DTSC is acting as a lead agency under the California Environmental Quality Act for a development project that requires an environmental impact report pursuant to Section 21100 or 21151 of the Public Resources Code, DTSC must approve or disapprove the permit within six months of the date the Department certifies that;

(1) the environmental impact report was completed in compliance with the California Environmental Quality Act (CEQA); and

(2) the decision–making body for the lead agency has reviewed the contents of the environmental impact report and found it be complete.

(e) DTSC, acting as lead agency, shall complete and certify an Environmental Impact Report as provided in Section 15090 of the Public Resources Code within one year after the date when DTSC accepted the application as technically complete. DTSC may extend the one–year time limit once for a period of not more than 90 days upon consent of the applicant.

(f) If DTSC is acting as a lead agency under the California Environmental Quality Act for a development project for which a negative declaration is adopted or for which DTSC determines that the project is exempt from the requirements of Division 13 (commencing with section 2100) of the Public Resources Code, DTSC must approve or disapprove the permit within three months of the date of adoption of the negative declaration or the determination that the project is exempt unless the project proponent requests an extension of the time. Adoption or approval of the negative declaration involves the following;

(1) prior to approval of the project, the decision making body of DTSC shall consider the negative declaration together with any comments received during the public review process, and Initial Study.

(2) the approval of the negative declaration means that there is absolutely no reasonable possibility of a significant effect resulting from a project.

(g) DTSC, acting as lead, shall complete and have ready for approval a negative declaration for a project within 105 days from the date when the Department accepted the application as technically complete. The negative declaration may be approved at a later time when the permit or other entitlement is approved.

(h) For Hazardous Waste Hauler Registrations:

(1) DTSC shall notify the applicant in writing, within 14 calendar days after receipt of an application that the application is technically complete and accepted for filing or that the application is incomplete and what specific information, documentation or fees, if any, are required to complete the application.

(2) DTSC shall notify the applicant, in writing, of DTSC's decision regarding the completeness of an application. The notification shall be within fourteen calendar days after the date on which DTSC determines the application to be complete and accepted for filing.

(i) For Equivalent Testing or Analytical Methods Variances:

(1) DTSC must notify the applicant within 60 days after receipt of an application that the application is technically complete and accepted for processing or that the application is incomplete and what further information is required.

(2) DTSC shall, within 180 days of receipt of a technically complete application, notify the applicant that the variance is granted or denied.

(j) For all other DTSC Variances:

(1) DTSC must notify the applicant within 60 days after receipt of an application that the application is technically complete and accepted for processing or that the application is incomplete and what further information is required.

(2) DTSC shall, within 60 days of receipt of a technically complete application, notify the applicant that the variance is granted or denied.

(k) These regulations apply only to applications submitted to DTSC on or after the effective date of the regulations.

NOTE: Authority cited: Sections 71001 and 71020, Public Resources Code; Section 15376, Government Code. Reference: Section 71022, Public Resources Code; Sections 66260.21, 66263.11, 22 CCR; and Section 25199.6, Health and Safety Code.

HISTORY

1. New chapter 3, article 1 and section filed 7–12–95; operative 8–11–95 (Register 95, No. 28).
2. Change without regulatory effect amending table 1 and adding new subsection (h)(2) filed 11–7–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 45).

§ 10301. The Department of Pesticide Regulation.

For the Department of Pesticide Regulation, Title 3, California Code of Regulations, Section 305, establishes the following time limits which have been summarized for informational purposes in Table 1. The time frames for Qualified Applicator Certificate, Agricultural Pest Control Adviser License, Qualified Applicator License, Designated Agent License, and Pest Control Pilots License are based on the applicant taking the first available test.

(a) For a Qualified Applicator Certificate:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 14 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the certificate within 100 days of receiving a completed application.

(b) For a Agricultural Pest Control Adviser License:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 14 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the license within 100 days of receiving a completed application.

(c) For a Agricultural Pest Control Adviser License Renewal:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 14 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the renewal within 60 days of receiving a completed application.

(d) For a Qualified Applicator License:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 14 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the license within 90 days of receiving a completed application.

(e) For a Designated Agent License:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 14 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the license within 90 days of receiving a completed application.

(f) For a Designated Agent License Renewal:

[The next page is 109.]

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 14 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the renewal within 30 days of receiving a completed application.

(g) For a Pest Control Pilots License:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 14 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the license within 30 days of receiving a completed application.

(h) For a Pest Control Pilots License Renewal:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 14 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the renewal within 30 days of receiving a completed application.

(i) For an Accreditation of Continued Education Instruction:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 20 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the accreditation within 30 days of receiving a completed application.

(j) For a Certificate of Registration for Economic Poisons for New Active Ingredient:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 120 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the registration within 150 days of receiving a completed application.

(k) For a Certificate of Registration for Economic Poisons for New Product:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 60 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the registration within 90 days of receiving a completed application.

(l) For a Certificate of Registration for Economic Poisons Renewal:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 30 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the renewal within 60 days of receiving a completed application.

NOTE: Authority cited: Section 71020, Public Resources Code; Section 15376, Government Code. Reference: Section 71022, Public Resources Code.

HISTORY

1. New section filed 7-12-95; operative 8-11-95 (Register 95, No. 28).

§ 10302. The State Water Resources Control Board and the Regional Water Quality Control Boards.

For the State Water Resources Control Board (SWRCB) and Regional Water Quality Control Boards (RWQCB), Water Code, Section 13264, and the Clean Water Act, Title 33 USCA Section 1341 establish the following time limits which have been summarized for informational purposes in Table 1:

(a) The (SWRCB)/(RWQCB) shall approve or disapprove a National Pollutant Discharge Elimination System (NPDES) Permit within 180 days of receiving a completed application.

(b) The (SWRCB)/(RWQCB) shall adopt Waste Discharge Requirements within 120 days of receiving a completed application.

(c) The (SWRCB)/(RWQCB) shall approve or disapprove an application for a General Industrial Storm Water Permit within 7 working days of receiving a completed application.

(d) For Waste Water Treatment Plant Operator's Certificate of Competence:

(1) The (SWRCB)/(RWQCB) shall notify the applicant in writing, within 30 days after receipt of an application that the application is complete and accepted for filing or that the application is incomplete and what specific information is required to complete the application.

(2) The (SWRCB)/(RWQCB) shall, within 30 days of receipt of a complete application, proof of successful completion of exam, and payment of fees, issue the certification.

NOTE: Authority cited: Section 71020, Public Resources Code; Section 15376, Government Code. Reference: Section 71022, Public Resources Code; and Section 3670, 23 CCR.

HISTORY

1. New section filed 7-12-95; operative 8-11-95 (Register 95, No. 28).

§ 10303. California Integrated Waste Management Board.

For the California Integrated Waste Management Board (CIWMB), Title 14, California Code of Regulations, Sections 18104, 18105, 18203, 18650.4, 18653.4, 18423, and 18425, and Sections 44007, 44008, and 44009 of the Public Resources Code, establishes the following time limits which have been summarized for informational purposes in Table 1:

(a) For a Full Solid Waste Facilities Permit:

(1) The enforcement agency shall determine within 30 calendar days of receipt whether or not an application for a Solid Waste Facilities Permit is complete. If the application is not complete the enforcement agency shall notify the applicant within 5 business days of the grounds for rejection. Once an application is accepted as for filing as complete and correct, the enforcement agency must decide whether to issue or not issue the permit within 120 days unless waived by the applicant.

(2) At least 65 days prior to issuing the permit, the enforcement agency must provide the CIWMB with a copy of the application and the proposed permit. The CIWMB shall concur or object to the permit within 60 days of receipt of a proposed permit. If the Board fails to concur or object within 60 days, it shall be deemed to have concurred in the issuance of the proposed permit.

(b) For a Standardized Solid Waste Facilities Permit:

(1) Within 30 days of receipt, the enforcement agency shall review the application to determine whether it meets the requirements of section 18105.1 of Title 14, California Code of Regulations.

(2) Within fifteen days of acceptance of an application for filing:

(A) The enforcement agency shall evaluate the information provided in the application and the proposed facility to determine whether or not the facility will be able to operate in compliance with the applicable minimum standards and standardized permit terms and conditions.

(B) If the enforcement agency finds that the application and facility meet the requirements set forth in subdivision (c)(2)(A) of this section then the enforcement agency shall forward the proposed standardized permit, application package, and the results of any analysis to the CIWMB. The enforcement agency shall further provide the applicant with a copy of the proposed standardized permit submitted to the

CIWMB. In addition, the enforcement agency shall provide a copy of the proposed standardized permit to any person who has requested it in writing.

(C) If the enforcement agency finds that the application or facility do not meet the requirements set forth in (c)(2)(A) of this section, the enforcement agency shall reject the application. A copy of the rejected application accompanied by an explanation shall be mailed to the applicant.

(3) Within 30 days of receipt of a proposed standardized permit, the CIWMB shall either concur in or object to the issuance of the proposed standardized permit.

(4) This subsection shall not become operative and only apply to operations specified in the minimum standards to be set forth in Chapters 3 and 3.1 of Division 7 of Title 14 when the minimum standards are filed with the Secretary of State and become effective and operative.

(c) For a Registration Solid Waste Facilities Permit:

(1) Within 30 days of receipt, the enforcement agency shall review the application to determine whether it meets the requirements of section 18104.1 of Title 14, California Code of Regulations.

(2) If the enforcement agency finds the application is complete and correct pursuant to 18104.1 of Title 14, California Code of Regulations, it shall be accepted for filing and stamped with the date and time of acceptance.

(3) When an application is accepted for filing, the enforcement agency shall issue a registration permit by mailing an executed registration permit form (CIWMB Form 81 (rev 1/95)), incorporated herein by reference, to the applicant with a copy fo the accepted application, within five days of filing.

(4) This subsection shall not become operative and only apply to operations specified in the minimum standards to be set forth in Chapters 3 and 3.1 of Division 7 of Title 14 when the minimum standards are filed with the Secretary of State and become effective and operative.

(d) For a Waste Tire Facility Permit:

(1) The CIWMB shall either accept or reject an application as complete within 30 days of its receipt. If an application package is rejected, the Board shall notify the applicant, enumerating the grounds of rejection.

(2) A decision to issue or not issue the permit shall be made by the Board within 180 days of the time the application is accepted as complete, unless the applicant requests an extension of time. However, if the Board is the lead agency for the project for which an environmental impact report (EIR) must be prepared, the Board shall have one year from the date the application is accepted as complete to issue or deny issuance of the permit. Furthermore, if there is an extension of time pursuant to Public Resources Code Section 21100.2 to complete and certify the EIR, the Board shall issue or deny the issuance of the permit within 90 days after certification of the EIR. This extension of time may be extended once more for an additional period, not to exceed 90 days, upon consent of both the applicant and the Board.

(e) For Used Oil Collection Center Certifications:

(1) The CIWMB shall notify an applicant in writing, within 10 working days of receipt of the application, that it is either complete, correct and accepted for filing, or that it is incomplete and rejected for filing and provide the reasons for the rejection.

(2) A decision to issues or not issue the certification shall be made by the board within 45 calendar days of the time the application is filed.

(f) For Used Oil Recycling Incentive Payment Registrations:

(1) The CIWMB shall notify an applicant in writing, within 10 working days of receipt of the application, that it is either complete, correct and accepted for filing, or that it is incomplete and rejected for filing and provide the reasons for the rejection.

(2) A decision to issues or not issue the registration shall be made by the board within 45 calendar days of the time the application is filed.

NOTE: Authority cited: Section 71020, Public Resources Code; Section 15376, Government Code. Reference: Section 71022, Public Resources Code.

HISTORY

1. New section filed 7–12–95; operative 8–11–95 (Register 95, No. 28).

§ 10304. Air Resources Board.

For the Air Resources Board, Title 17, California Code of Regulations, Section 60030, establishes the following time limits which have been summarized for informational purposes in Table 1:

(a) The procedures and time periods set forth in this subsection shall apply for all permit applications received by the Air Resources Board, except for those permit applications specified in subsection (b).

(1) Within 30 days of receipt of an application for a permit, as defined in Government Code Section 15375(a), the executive officer of the Air Resources Board shall inform the applicant, in writing, either that the application is complete and accepted for filing or that the application is deficient and identify the specific information required to make the application complete.

(2) Within 15 days of receipt of additional information provided in response to a determination by the executive officer of the Air Resources Board that an application is deficient, the executive officer shall inform the applicant, in writing, either that the new information is sufficient to make the application complete and that the application is accepted for filing, or that the application is deficient and shall identify the specific information required to make the application complete.

(3) Within 90 days after an application is accepted for filing, the executive officer shall approve or disapprove the application.

(b) For the categories listed below, permit applications shall be processed as provided in the procedures specified in subsection (a), in accordance with the following time periods:

(1) For an emergency variance for sulfur in gasoline or diesel pursuant to 13 CCR section 2252;

(A) The executive officer will inform the applicant within five days of receipt of the application that the application is complete or that additional information is required.

(B) The executive officer will determine within five days after receipt of additional information whether the information submitted makes the application complete.

(C) Within 10 days after an application is accepted for filing, the executive officer shall act on the application.

(2) For approval of independent testers pursuant to 17 CCR section 91207;

(A) The executive officer will inform the applicant within 15 days of receipt of the application that the application is complete or that additional information is required.

(B) The executive officer will determine within 15 days after receipt of additional information whether the information submitted makes the application complete.

(C) Within 90 days after an application is accepted for filing, the executive officer shall act on the application. This period applies to each test' as specified in 17 CCR section 91201, for which approval is required.

(c) The executive officer may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application.

(d) The time periods in subsections (a) and (b) may be extended by the executive officer for good cause as provided by Government Code Section 15376.

NOTE: Authority cited: Section 71020, Public Resources Code; Section 15376, Government Code. Reference: Section 71022, Public Resources Code; and Section 60030, 17 CCR.

HISTORY

1. New section filed 7–12–95; operative 8–11–95 (Register 95, No. 28).

§ 10305. Median, Minimum, and Maximum Times for Processing a Permit.

Table 2 summarizes the median, minimum, and maximum times for processing a permit for state environmental agencies, as found in Section

60030, Title 17; Sections 66260.21 and 66263.11, Title 22; and Section 3670, Title 23.

HISTORY

1. New section filed 7–12–95; operative 8–11–95 (Register 95, No. 28).

TABLE 2
SUMMARY OF CHAPTER 3, ARTICLE 1
MEDIAN, MINIMUM, AND MAXIMUM TIMES FOR PROCESSING A PERMIT

Note: This table provides general summary information only; see appropriate section of the text for regulatory language and conditions of applicability.

Department/ Agency	Permit/Authorization	Times for Processing a Permit (days)		
		Median	Minimum	Maximum
Department of Toxic Substances Control	Hazardous Waste Haulers Registration	60	1	180
Department of Toxic Substances Control	Equivalent Testing or Analytical Methods Variances	60	1	1200
Department of Toxic Substances Control	All other Department Variances	60	1	1200
Department of Pesticide Regulation	Qualified Applicator Certificate	50	1	111
Department of Pesticide Regulation	Agricultural Pest Control Adviser License	46	12	129
Department of Pesticide Regulation	Agricultural Pest Control Adviser License Renewal	11	1	74
Department of Pesticide Regulation	Qualified Applicator License	54	5	97
Department of Pesticide Regulation	Designated Agent License	50	21	96
Department of Pesticide Regulation	Designated Agent License Renewal	8	1	39
Department of Pesticide Regulation	Pest Control Pilots License	56	21	106
Department of Pesticide Regulation	Pest Control Pilots License Renewal	11	1	35
Department of Pesticide Regulation	Accreditation of Continued Education Instruction	N/A	N/A	N/A
Department of Pesticide Regulation	Certificate of Registration for Economic Poisons for New Active Ingredient	106	16	314
Department of Pesticide Regulation	Certificate of Registration for Economic Poisons for New Product	40	4	209
Department of Pesticide Regulation	Certificate of Registration for Economic Poisons for Renewal	28	7	197

TABLE 2
SUMMARY OF CHAPTER 3, ARTICLE 1
MEDIAN, MINIMUM, AND MAXIMUM TIMES FOR PROCESSING A PERMIT (cont.)

Department/ Agency	Permit/Authorization	Times for Processing a Permit (days)		
		Median	Minimum	Maximum
State Water Resources Control Board	Wastewater Treatment Plant Operators Certificate of Competence	30	3	112
California Integrated Waste Management Board	Full Solid Waste Facilities Permit	90	60	120
California Integrated Waste Management Board	Standardized Solid Waste Facility Permit	TBD	1	75
California Integrated Waste Management Board	Registration Solid Waste Facility Permit	TBD	1	30
California Integrated Waste Management Board	Waste Tire Facility Permit	TBD	TBD	TBD
California Integrated Waste Management Board	Used Oil Collection Center Certifications	35	25	45
California Integrated Waste Management Board	Used Oil Recycling Incentive Payment Registrations	35	25	45
Air Resources Board	All Permits	30	5	567

Article 2. Appeal Procedures

§ 10310. State Environmental Permit Agencies that Violate Time Limits.

(a) If any state environmental agency, as defined in section 10100(r), fails to take timely action on the issuance or denial of an environmental permit in accordance with the time limits established for any one of the following; Section 71022 of the Public Resources Code, Section 25199.6 of the Health and Safety Code, or Section 15378 of the Government Code; the applicant and/or petitioner may appeal to the Secretary. The appeal shall be filed within 30 days of the date that the state environmental agency was to have made a final determination on the environmental permit. The appeal shall use the following procedure;

(1) the applicant and/or petitioner submits an appeal to the Secretary in writing. The appeal shall include, at a minimum, all of the following:

(A) name of the applicant, and if applicable, the name of the petitioner;

(B) name of the business;

(C) address of the facility;

(D) name of the state environmental agency that failed to take timely action on the applicant's environmental permit;

(E) the date that the state environmental agency was to have made a final determination on the environmental permit;

(F) the name and/or type of environmental permit that the applicant applied for;

(G) an explanation of why the applicant and/or petitioner is requesting the appeal; and

(H) any additional information deemed necessary by the Secretary.

(2) Upon receiving the appeal, the Secretary will contact the applicant and/or petitioner and the state environmental agency within 30 days to determine the following;

(A) if the state environmental agency violated any of the time limits established for the following;

1. Section 71022 of the Public Resources Code;
2. Section 25199.6 of the Health and Safety Code; and,
3. Chapter 3 (commencing with Section 15374) of the Government Code; and

(B) if the state environmental agency had good cause for violating the time limits;

(3) If the Secretary finds the time limits under appeal have been violated without good cause, the Secretary shall;

(A) establish a date by which the state environmental agency shall act on the permit application, with adequate provision for the requirements of subparagraphs (A) to (C), inclusive, of paragraph (4) of subdivision (a) of the Public Resources Code Section 71022; and

(B) notify the state environmental agency, in writing, to provide for full reimbursement of all filing and permit processing fees paid by the applicant to the environmental agency for the permit application under appeal, pursuant to Section 71030(d) of the Public Resources Code and Section 15378 of the Government Code. The reimbursement shall occur with 60 days of being notified by the Secretary.

(b) the determination of the Secretary shall be based only on procedural violations, including but not limited to, the exceeding of time limits.

(c) if the violation is of the time limits of Section 71022 of the Public Resources Code, the determination of the Secretary to order reimbursement of any application filing fees shall only be applicable to the consolidated permit agency or the participating agencies that are in violation of the time limits without showing good cause.

(d) All state environmental agencies shall attach processing time limits to their permit applications.

(e) The following statement shall be added to all state environmental agency permit applications, "Time limits have been established for the

processing of permit applications. These time limits are attached. Persons whose applications have not been processed within the time limits prescribed by statute or regulation may appeal to the Secretary for Environmental Protection. Appeals must be filed within 30 days of the date the time periods were allegedly exceeded. If the Secretary finds that the time limits have not been met, and the environmental agency did not have good cause why the time limits have not been met, the Secretary may direct the environmental agency to process the application by a specified date and so inform the applicant. For permits subject to the Permit Reform Act of 1981 (Government Code Sections 15374, et seq.), the Secretary may also order that the applicant receive a reimbursement of all filing and permit processing fees."

(f) for those state permit agencies that participate at the request of the permit applicant upon the agency's agreement;

(1) An appeal shall be only for violations of the time limits established pursuant to Section 71022 of the Public Resources Code; and

(2) They are excluded from requirements of subsections (d) and (e) of this section.

NOTE: Authority cited: Sections 71001, 71020 and 71030, Public Resources Code; Section 15378, Government Code. Reference: Section 71030, Public Resources Code; and Section 15376, Government Code.

HISTORY

1. New article 2 and section filed 7-12-95; operative 8-11-95 (Register 95, No. 28).

§ 10311. Local Environmental Permit Agencies that Violate Consolidated Permit Time Limits.

(a) If a local environmental agency fails to take timely action on the issuance or denial of an environmental permit in accordance with the time limits established for Section 71022 of the Public Resources Code, the applicant and/or petitioner may appeal to the Secretary. The appeal shall be filed within 30 days of the date that the local environmental agency was to have made a final determination on the environmental permit. The appeal shall use the following procedure:

(1) The applicant and/or petitioner submits an appeal to the Secretary in writing. The appeal shall include, at a minimum, all of the following:

(A) Name of the applicant, and if applicable, the name of the petitioner;

(B) Name of the business;

(C) Address of the facility;

(D) Name of the local environmental agency that failed to take timely action on the applicant's environmental permit;

(E) The date that the local environmental agency was to have made a final determination on the environmental permit;

(F) The name and/or type of environmental permit that the applicant applied for;

(G) An explanation of why the applicant and/or petitioner is requesting the appeal; and

(H) Any additional information deemed necessary by the Secretary.

(2) Upon receiving the appeal, the Secretary will contact the applicant and/or petitioner and the local environmental agency within 30 days to determine the following;

(A) If the local environmental agency violated any of the time limits established for Section 71022 of the Public Resources Code; and

(B) If the local environmental agency had good cause for violating the time limits.

(3) If the Secretary finds the time limits under appeal have been violated without good cause, the Secretary shall;

(A) Establish a date by which the local environmental agency shall act on the permit application, with adequate provision for the requirements of subparagraphs (A) to (C), inclusive, of paragraph (4) of subdivision (a) of the Public Resources Code Section 71022; and

(B) notify the local environmental agency, in writing, to provide for full reimbursement of all filing and permit processing fees paid by the applicant to the local environmental agency for the permit application under appeal, pursuant to Section 71030(d) of the Public Resources Code. The reimbursement shall occur with 60 days of being notified by the Secretary.

(b) the determination of the Secretary shall be based only on procedural violations, including but not limited to, the exceeding of time limits.

(c) the determination of the Secretary to order reimbursement of any application filing fees shall only be applicable to the consolidated permit agency or the participating agencies that are in violation of the time limits without showing good cause.

NOTE: Authority cited: Sections 71001, 71020 and 71030, Public Resources Code. Reference: Section 71030, Public Resources Code.

HISTORY

1. New section filed 7-12-95; operative 8-11-95 (Register 95, No. 28).

§ 10312. Local Environmental Permit Agencies that Violate Other Permit Time Limits.

(a) For the purpose of this section, "local environmental agency" does not include the agencies described in subdivisions (1) and (6) of Section 10100(*l*) of Title 27 CCR.

(b) If a local environmental agency fails to take timely action on the issuance or denial of an environmental permit in accordance with the time limits established for that agency, the applicant may appeal.

(c) An applicant may submit an appeal to the governing body of a local environmental agency, or if there is no governing body, to the director of the local environmental agency, for a determination regarding the failure by the local environmental agency to take timely action on the issuance or denial of an environmental permit.

(d) The appeal shall include, at a minimum, the following information;

(1) name of the applicant;

(2) name of the business;

(3) address of the facility;

(4) name of the local environmental agency that failed to take timely action on the applicant's environmental permit if the applicant appeals directly to the Secretary pursuant to subsection (f) of this section;

(5) the date that the local environmental agency was to have made a final determination on the environmental permit;

(6) the name and/or type of environmental permit that the applicant applied for; and

(7) an explanation of why the applicant is requesting the appeal.

(e) The appeal shall be submitted to the local environmental agency prior to the applicant providing 7 days advance notice to the permitting agency of the intent to provide public notice of the project pursuant to subdivision (b) of Section 65956 of the Government Code.

(f) The applicant may appeal directly to the Secretary whenever any of the following occurs;

(1) If the local environmental agency declines to accept the appeal pursuant to subdivision (a) of Section 65956.5 of the Government Code; or

(2) If the local environmental agency fails to issue a final written determination within 60 days pursuant to subdivision (b) of Section 65956.5 of the Government Code.

(g) The local environmental agency has 60 days after receiving the appeal to issue a final determination regarding the appeal. The determination shall include the following;

(1) an explanation of why the local environmental agency failed to act on the permit application within the established time limits;

(2) the date the local environmental agency shall act on the permit application.

NOTE: Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Section 65956.5, Government Code.

HISTORY

1. New section filed 7-12-95; operative 8-11-95 (Register 95, No. 28).

§ 10313. Completeness Appeals.

(a) An applicant may submit an appeal to the Secretary if the time limits for processing a completeness determination on an environmental permit application and any accompanying submitted materials to a Board, Office, or Department within the California Environmental Protection Agency are exceeded.

(b) The appeal shall include, at a minimum, the following information;

(1) name of the applicant;

(2) name of the business;

(3) address of the facility;

(4) name of the board, office, or department that made the determination;

(5) the name and/or type of permit that the applicant applied for; and

(6) an explanation of why the applicant is making the appeal.

(c) An applicant may submit an appeal to the Secretary rather than the local environmental agency that is issuing the environmental permit regarding the time limits for processing a completeness determination on an environmental permit application and any accompanying submitted materials to a local environmental agency. The appeal shall be made under either of the following circumstances:

(1) The local environmental agency has not adopted an appeals process pursuant to subdivision (c) of Section 65943 of the Government Code.

(2) The local environmental agency declines to accept an appeal for a decision pursuant to subdivision (c) of Section 65943 of the Government Code.

(d) The appeal shall include, at a minimum, the following information:

(1) name of the applicant;

(2) name of the business;

(3) address of the facility;

(4) name of the local environmental agency that made the determination;

(5) the name and/or type of environmental permit that the applicant applied for; and

(6) an explanation of why the applicant is requesting the appeal.

(e) There shall be a final written determination by the Secretary on the appeal not later than 60 calendar days after the receipt of the applicant's written appeal.

(f) Pursuant to subdivision (c) of Section 65943 of the Government Code, if the final written determination on the appeal is not made within the specified 60-day period, the application with the submitted materials shall be deemed complete.

(g) For the purpose of this section, "local environmental agency" does not include the agencies described in subdivisions (1) and (6) of Section 10100(j) of Title 27 CCR.

NOTE: Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Sections 65943.5 and 65943, Government Code.

HISTORY

1. New section filed 7-12-95; operative 8-11-95 (Register 95, No. 28).

Chapter 4. Permit Consolidation Zone Pilot Program

Article 1. Scope and Applicability

§ 10400. Purpose.

(a) These regulations establish the implementation framework for a pilot program intended to offer a step toward reforming California's environmental permitting system to make it more responsive, efficient, and timely, while preserving California's commitment to a safe and healthful environment.

This pilot program, will allow the creation of up to twenty Permit Consolidation Zones among California's cities and counties. Within these zones, the current system of individually issued environmental permits will be augmented with a voluntary option allowing facilities to substitute a facility compliance plan in lieu of existing environmental permits for new or expanding facilities. The use of facility compliance plans is anticipated to expedite environmental permitting in the designated Permit Consolidation Zones and the pilot will provide an opportunity to test the facility compliance plan concept as a possible new model for environmental regulation.

The facility compliance plan represents a new regulatory approach and should be seen by those using these regulations as a new permit concept separate and distinct from existing environmental permits. The facility compliance plan constitutes a replacement for existing environmental permits. Section 1 of Chapter 5 (commencing with Section 71035) of Division 34 of the Public Resources Code) establishes separate and distinct timeframes for the processing of facility compliance plans. The facility compliance plan must contain all the information required by existing permits and, in addition, represents an opportunity for the compilation of a comprehensive, multimedia statement of environmental operations and management at a facility.

These regulations implement this program. Elements of the regulations include the application and competitive selection process for those communities who wish to join the pilot, a procedure for facilities to opt into a facility compliance plan, and a process to institute coordinated inspection and enforcement activities for facilities authorized by a facility compliance plan.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.1 through 71035.11 inclusive, Public Resources Code.

HISTORY

1. New chapter 4, article 1 (section 10400) and section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

Article 2. Definitions

§ 10401. Definitions.

(a) The definitions contained in this section shall apply only to these regulations.

(1) "Complete and adequate" means a determination by a permitting authority that a facility compliance plan contains all the information required by Sections 71035.5(b) and 71035.6(b) of Chapter 5 of Division 34 of the Public Resources Code. A finding that a facility compliance plan is completed and adequate, incorporating all additional conditions as required by the permitting authority, shall result in the approval of the plan for the portion of the plan addressed by the permitting authority.

(2) "CUPA" means a certified unified program agency as designated under Chapter 6.11 of Division 20 of the Health and Safety Code.

(3) "Day" means for the purpose of these regulations, calendar days.

(4) "Environmental permit" means any environmental permit issued by an environmental agency or a certified unified program agency.

(5) "Excluded Facility" means any facility involved in the following operations or activities:

(A) The incineration of wastes. Incineration does not include any combustion process used as part of an air pollution control system.

(B) The storage, treatment, transportation, or disposal of radioactive materials.

(C) Other activities that the Secretary for Environmental Protection determines, prior to approval of an application for a Permit Consolidation Zone, and based on risks to the environment and to the public health and safety, to be appropriately regulated through individual permits.

(D) Other activities excluded as requested by a city or county in its Permit Consolidation Zone application.

(6) "Expanding Facility" means any facility, located within a Permit Consolidation Zone which:

(A) Is physically in existence at the time the facility compliance plan is submitted;

(B) Is in compliance with all applicable regulations prior to the date of submittal of a facility compliance plan to the Permit Consolidation Zone Administrator; and

(C) Requires a new or amended environmental permit to conduct a new or modified activity.

(7) "Facility" means the site presently engaged in or at which an activity is planned that is required to obtain authorization from a permitting authority for that activity.

(8) "Facility Compliance Plan" means a document that incorporates all of the following:

(A) Contains information and data for all emissions and discharges from the facility and the management of solid waste and hazardous waste,

including all information relevant to individual environmental permits that would otherwise be required for the facility.

(B) Specifies measures, including, but not limited to, monitoring, reporting, emissions limits, materials handling, and throughputs, to be taken by the project applicant to ensure compliance with all environmental permits that would otherwise be required.

(C) Meets the requirements of all individual environmental permits that would otherwise be required.

(D) Ensures compliance with all applicable environmental laws, regulations, and ordinances.

(9) "New Facility" means any facility, located within a Permit Consolidation Zone, which was not physically in existence prior to the date of submittal of a facility compliance plan to the Permit Consolidation Zone Administrator.

(10) "Permitting Authority" means those governmental entities identified by subdivisions (a) to (g), inclusive of Section 71011 of the Public Resources Code, specifically including:

(A) The Department of Toxic Substances Control

(B) The Department of Pesticide Regulation

(C) The State Air Resources Board

(D) The State Water Resources Control Board

(E) The California Integrated Waste Management Board

(F) The Office of Environmental Health Hazard Assessment

(G) The Regional Water Quality Control Boards

(H) Air Quality Management Districts and Air Pollution Control Districts as defined in Section 39025 of the Health and Safety Code.

(I) An enforcement agency, as defined in Section 40130 of the Public Resources Code (Local Enforcement Agencies operating under the authority of the Integrated Waste Management Act).

(J) A county agricultural commissioner with respect to his or her administration of Divisions 6 (commencing with Section 11401) and 7 (commencing with Section 12501) of the Food and Agricultural Code.

(K) The local agency responsible for administering Chapter 6.7 (commencing with Section 25280) of the Health and Safety Code concerning underground storage tanks and any underground storage tank ordinance adopted by a city or county.

(L) The local agency responsible for the administration of the requirements imposed pursuant to Section 13370.5 of the Water Code (pretreatment to Publicly Owned Treatment Work (POTW) programs).

(M) Certified Unified Program Agencies (CUPAs).

(N) Any other environmental or related permitting authority that elects to become a participating agency within the Permit Consolidation Zone.

(11) "Permit Consolidation Zone" means a geographical area, contiguous or non-contiguous, designated by and within the jurisdiction of a city or cities or a county or counties or both, and approved by the Review Panel, within which a facility compliance plan may be substituted for all environmental permits otherwise required. A Permit Consolidation Zone specifies the types of facilities that are eligible to operate under the authority of a facility compliance plan.

(12) "Plan Applicant," means the facility owner and/or operator responsible for the preparation of a facility compliance plan.

(13) "Review Panel," means the panel composed of the Secretary for Environmental Protection and the Secretary for Trade and Commerce. The Review Panel is empowered to review applicants for and designate Permit Consolidation Zones.

(14) "Zone Administrator," means the individual or agency designated by the Zone Applicant to be responsible for the administration of the zone. The zone applicant may designate any person within any organization it deems appropriate to perform these duties, including but not limited to a Cal/EPA Permit Assistance Center or a Certified Unified Program Agency.

(15) "Zone Applicant" means a California city or county, individually or together, seeking to be designated as a Permit Consolidation Zone.

(16) "Zone Applicant Governing Authority" means the duly constituted governing board for a city or county within the State of California usually a city council in the case of a city or the board of supervisors in the case of a county.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.4, 71035.5, 71035.6, 71035.8 and 71305.10, Public Resources Code.

HISTORY

1. New article 2 (section 10401) and section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

Article 3. Permit Consolidation Zone Application Process

§ 10402. Eligibility for Designation as a Permit Consolidation Zone.

(a) Cities or counties with a population greater than 5,000, based upon the 1990 census, are eligible to apply for a Permit Consolidation Zone which may constitute all or part of their jurisdiction.

(b) Cities and counties, individually or together, may apply for a Permit Consolidation Zone.

(c) Not more than 20 Permit Consolidation Zones may be designated. Applications approved shall represent a diverse range of urban and rural counties and small and large cities.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Section 71035.3, Public Resources Code.

HISTORY

1. New article 3 (sections 10402-10408) and section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10403. Procedures for Submittal of a Zone Application.

(a) Any qualifying city and/or county may submit an application for a Permit Consolidation Zone after the effective date of these regulations.

(b) An application for a Permit Consolidation Zone shall be submitted to the Review Panel not later than December 31, 1997. The Secretary for Environmental Project, may at his discretion, extend the period of time to apply to be a zone.

(c) The city and/or county preparing the application for a Permit Consolidation Zone is responsible for obtaining all the necessary agreements required in Section 10404(a)(14) with participating permitting authorities.

(d) A Zone Applicant is required to provide notice to the public and all interested parties of its submittal of an application for designation of a Permit Consolidation Zone by conducting a public hearing 30 days prior to submittal of the application.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Section 71035.3, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10404. Informational Requirements for an Application for a Permit Consolidation Zone.

(a) The zone application shall:

(1) Identify an individual or agency who shall perform the duties of the Zone Administrator.

(2) Designate one primary point of contact for each participating permitting authority within a zone including title, address, phone number, and, if available, the facsimile number and e-mail address of the contact.

(3) Identify the area which is being designated as a Permit Consolidation Zone. This shall include a description of the area and a listing of the types of facilities specifically included within the zone, a map showing the zone boundaries, the boundaries of the applicant's jurisdiction, and the boundaries of adjacent jurisdictions.

(4) Identify the population of the city or county based on the 1990 census.

(5) Identify the environmental permits to be substituted by the facility compliance plan.

(6) Identify the types of facilities which the Zone Applicant will prohibit from inclusion within the Permit Consolidation Zone.

(7) Include a copy of the resolution adopted by the Zone Applicant's governing authority that approves the creation of a Permit Consolidation Zone.

(8) Identify any efforts to reform or expedite permit procedures or requirements that constitute permit streamlining that have been implemented by the Zone Applicant's jurisdiction(s) or the environmental agencies participating in the proposed Permit Consolidation Zone.

(9) Identify if there is a single CUPA within the boundaries of the proposed Permit Consolidation Zone.

(10) Identify the public notice requirements that currently exist for the individual environmental permits that will be substituted by a facility compliance plan.

(11) Identify the public notice, hearing, comment, participation, administrative appeal, and judicial review provisions that apply to a Plan Applicant within the proposed Permit Consolidation Zone.

(12) Identify the steps taken, in addition to the public notice requirement in Section 10402(d), to inform the public and businesses located within a proposed zone of the zone applicant's intent to apply for a Permit Consolidation Zone.

(13) Identify the permitting authorities which have agreed to participate in the Permit Consolidation Zone.

(14) Identify the agreements or agreements in process, between the zone applicant and other local, state, federal, and regional permitting agencies with jurisdiction within the boundaries of the proposed Permit Consolidation Zone. These agreements shall represent and describe the commitment of the permitting authority to participate in a Permit Consolidation Zone. The Zone Applicant shall submit all approved agreements with the application package. The approved agreements must:

(A) Be binding on the parties executing the agreement;

(B) Clearly identify the permits to be substituted by a facility compliance plan; and

(C) Identify the appeal process to be used in the event a facility wishes to appeal a determination of incompleteness and/or inadequacy.

(15) Identify any and all military bases or military reservations being converted to private use within the boundaries of the proposed Permit Consolidation Zone.

(16) Identify how permitting authorities will cooperate on facility compliance inspections, consolidation of permit fees, and review and submittal of environmental monitoring reports.

(17) Identify the process for conversion of a facility compliance plan to individual environmental permits, in the event of termination of the Permit Consolidation Zone, withdrawal of a permitting authority from a Zone, or upon the request of a facility who has received a facility compliance plan.

(18) Identify how the California Environmental Quality Act (CEQA) will be complied with and implemented within the proposed Permit Consolidation Zone and who will be responsible.

(19) Provide information that shows the proposed Permit Consolidation Zone is in conformance with all planning and zoning restrictions applicable to the permits to be substituted by a facility compliance plan within the zone.

(20) Identify all economic incentive zones that exist within the Permit Consolidation Zone.

(21) Identify the fees assessed for each individual permit application that may be incorporated within the consolidated fee statement for a facility compliance plan application.

(22) Identify steps zone applicant will use to encourage businesses within a zone to practice pollution prevention.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.4, 71035.5, 71035.6 and 71035.8, Public Resources Code.

HISTORY

1. New section filed 5–22–97; operative 6–21–97 (Register 97, No. 28).

§ 10405. Process for Approval of an Application for Designation of a Permit Consolidation Zone.

(a) The Review Panel shall evaluate the adequacy of an application for designation of a Permit Consolidation Zone. In conducting this review the Review Panel may rely upon staff from either agency to evaluate the application materials.

(1) The Review Panel shall, within 60 days of receipt of the application, either (a) convey a letter of deficiency to the zone applicant identifying and requesting submittal of information that will allow the Review Panel to make a determination on the zone designation, or (b) advise the zone applicant that the zone application contains the information necessary to make a designation.

(2) In the event a letter of deficiency is sent to the zone applicant, the zone applicant shall submit information correcting the deficiency, at the earliest opportunity, but in no event after June 30, 1998. The Review Panel shall have 60 days to conduct its review of the submitted information to determine if the application is complete.

(3) Zone applications shall be acted upon by the Review Panel within 30 days of their being found to contain all the necessary elements to allow a zone determination to be made.

(4) The zone applicant shall be notified of the Review Panel's determination in writing.

(5) A Permit Consolidation Zone shall become effective following its designation by the Review Panel. A Zone Applicant may determine a specific date following approval by the Review Panel for the Zone to become operational.

(6) An application for a Permit Consolidation Zone that remains deficient after June 30, 1998 shall be denied.

(b) When evaluating a zone application, the Review Panel shall consider the following factors:

(1) The extent to which the zone applicant has implemented permit streamlining for permits under its own authority.

(2) Whether there is a single CUPA within the boundaries of the area proposed as a zone.

(3) The provisions made to ensure adequate public participation in the final permit decisions on facilities subject to a facility compliance plan.

(4) The contents of existing or proposed agreements between the applicant and other local, state, and regional permitting agencies with jurisdiction within the proposed Permit Consolidation Zone.

(c) The Review Panel shall make its determination of approval of a zone application only on the basis of and after finding that the application fulfills the requirements of Sections 10402, 10404, and 10405(b).

(d) The Review Panel shall make its zone designations based upon the applications that are pending before it at the time a decision is made.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.4, 71035.5, 71035.6 and 71035.8, Public Resources Code.

HISTORY

1. New section filed 5–22–97; operative 6–21–97 (Register 97, No. 28).

§ 10406. Responsibilities of the Zone Administrator.

(a) The Zone Administrator shall have the following responsibilities:

(1) Ensure that the Review Panel has all the necessary information it may request to allow it to render a decision on the zone application.

(2) Monitor the coordination and cooperation of all participating and related permitting authorities.

(3) Monitor the review of facility compliance plans by permitting authorities and facilitate the greatest possible coordination between the permitting authorities to expedite their review.

(4) Submit to the Plan Applicant a consolidated fee statement that specifies the individual fees payable to each permitting authority making a determination of completeness and adequacy for a portion of the facility compliance plan.

(5) Monitor activities performed by permitting authorities to conform to CEQA.

(6) Ensure the transmittal of the facility compliance plan, following the receipt of all determinations of completeness and adequacy, to the Secretary for Environmental Protection.

(7) Immediately notify the Plan Applicant when a complete and adequate facility compliance plan has been transmitted to the Secretary for Environmental Protection.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.4, 71035.5, 71035.6 and 71305.10, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10407. Process for Amendment or Termination of a Zone Designation.

(a) A designated Permit Consolidation Zone may be amended by submittal of a request from the Zone Administrator to the Review Panel.

(1) The amendment request shall contain the information necessary to augment the information provided in the application materials required by Section 10405 to make those materials consistent with the requested amendment.

(2) Public notice of an intent to amend a zone designation shall become effective 90 days prior to the Zone's governing board's action directing the submittal of a "request to amend" to the Review Panel.

(3) The request for amendment, unless denied by the Review Panel, shall become effective 90 days after the date of receipt by the Review Panel.

(b) A designated Permit Consolidation Zone may be terminated by submittal of a notice of intent to terminate to the Review Panel.

(1) A transmittal letter and concurring resolution adopted by the Zone's governing authority shall constitute a notice of intent to terminate a Permit Consolidation Zone.

(2) Notice of the intention of the Zone to terminate its designation shall be provided by the Zone's governing board 30 days prior to formal consideration of the termination to each participating permitting authority and all facilities within the Zone who have applied for or who have received approved facility compliance plans.

(3) Public notice of an intent to terminate a zone designation shall be provided fourteen days prior to the Zone's governing board's action directing the submittal of a "notice of intent to terminate" to the Review Panel.

(4) The Permit Consolidation Zone shall be terminated 180 days following the submittal of the notice of intent to the Review Panel.

(c) A permitting authority participating in a Permit Consolidation Zone may withdraw from the Zone by following the procedures set forth in subpart (b) above.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3 and 71035.4, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10408. Termination or Amendment of Permit Consolidation Zones; Process for Conversion of a Facility Compliance Plan to Individual Environmental Permits.

(a) A facility compliance plan shall be converted into individual environmental permits when a zone is terminated or if a zone amendment results in the facility no longer being included within the zone.

(b) The process of conversion shall be the process identified in the application for designation of the Permit Consolidation Zone.

(c) A facility compliance plan shall remain in effect, unless otherwise prohibited by law, until such time individual environmental permits are issued or denied by the permitting authorities. A facility operating under a facility compliance plan shall not be denied an individual operating permit for the operations conducted pursuant to a complete and adequate facility compliance plan except in the case such operation would be in conflict with a law or regulation or ordinance applicable at the time the facility compliance plan would be converted to an individual permit.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.4, 71035.5 and 71035.6, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

Article 4. Facility Compliance Plan

§ 10409. Contents of the Facility Compliance Plan.

(a) The Plan Applicant shall prepare and submit a proposed facility compliance plan for review by the individual permitting authorities.

(1) The proposed facility compliance plan shall demonstrate compliance with all applicable environmental laws, rules, regulations, and ordinances specified by the permitting authorities for the activity to be authorized by the facility compliance plan.

(2) The proposed facility compliance plan shall contain the information required by Section 10401(a)(8).

(b) The proposed facility compliance plan may incorporate the following optional elements, provided they are not otherwise required by a permitting authority, with the understanding that they shall not constitute a substitute for any existing regulatory compliance requirements:

(1) Identification of relevant environmental impacts associated with the operation of a facility;

(2) Identification of operational standards for environmental performance which meet or exceed all permit and other legal requirements;

(3) A description of an internal environmental management procedures which enable the facility to meet its legal requirements;

(4) A monitoring and reporting system which identifies operational performance and identifies any excursion from established goals;

(5) Appropriate training, awareness, and communication systems for the organization;

(6) Appropriate documentation and document control;

(7) Consolidated plans for appropriate emergency preparedness and response;

(8) Procedures establishing internal audits; and

(9) Procedures for appropriate supervisory review of performance in meeting established environmental goals.

(c) A facility compliance plan shall contain the conditions deemed necessary by a permitting authority to render a plan complete and adequate. The conditions imposed by a permitting authority shall be consistent with its authority to impose conditions on individual environmental permits for which the facility compliance plan is a substitute.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.4, 71035.5, 71035.6 and 71035.8, Public Resources Code.

HISTORY

1. New article 4 (sections 10409-10411) and section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10410. Process for Submittal, Review, and Approval of a Facility Compliance Plan.

(a) Notification

(1) A Plan Applicant shall provide written notice to the Zone Administrator and each participating permitting authority within the Zone of its intent to substitute a facility compliance plan for individual environmental permits. The notice shall provide a description of the activities to be conducted under the terms of a facility compliance plan.

(2) The Zone Administrator shall develop a form or checklist to be used by the Plan Applicant to augment the information provided in the notice. The contents of the form or checklist shall be used to allow the participating permitting authorities to review the nature of the proposed facility operation to determine if the activity falls under their jurisdiction.

(3) A notice of intent to submit a proposed facility compliance plan shall be provided to the Zone Administrator and each participating permitting authority not less than 60 days prior to submittal of the plan.

(4)(A) The Zone Administrator shall, during the public notice period preceding submittal of a proposed facility compliance plan for consideration, facilitate discussions with the Plan Applicant and the individual permitting authorities to clarify the technical information required in a complete and adequate facility compliance plan.

(B) At any time subsequent to the sixty-day notification period, a Plan Applicant may submit a proposed facility compliance plan to the Zone Administrator.

(b) Where feasible and practicable, and at the request of the Zone Administrator, California Environmental Protection Agency Permit Assistance Centers may participate in the review of a proposed Facility Compliance Plan.

(c) The Plan Applicant shall submit a copy of a proposed facility compliance plan concurrently to the Zone Administrator and to each permitting authority participating in the zone from whom a determination of completeness and adequacy is required.

(d)(1) The permitting authorities reviewing the proposed facility compliance plan shall transmit their determination whether the proposed plan is complete and adequate to the Plan Applicant and Zone Administrator within 45 days of receipt of the plan.

(2) The Zone Administrator shall, within five (5) days of receiving all required determinations of completeness and adequacy from the appropriate permitting authorities, transmit the consolidated determination to the Secretary for Environmental Protection.

(e) If the proposed facility compliance plan is determined not to be complete and adequate, the permitting authority shall, not later than 45 calendar days after receipt of a proposed facility compliance plan, specify in writing to the applicant and Zone Administrator those parts of the plan that are deficient and shall list and provide a thorough description of the information that must be provided to allow a determination of completeness and adequacy to be made.

(f) The Plan Applicant shall resubmit the proposed facility compliance plan incorporating the information required by the permitting authorities to render the plan complete and adequate. The permitting authorities shall, within 30 days of receipt of the resubmitted plan, determine in writing whether the proposed plan is complete and adequate. The permitting authorities shall transmit their determination to the Zone Administrator and the Plan Applicant. If the determination of completeness and adequacy from any individual permitting authority is not provided within the 30-day period, the portion of the proposed facility compliance plan applicable to the permitting authority that did not meet that determination deadline, shall be deemed to be complete and adequate.

(g) Each permitting authority shall identify, in the application for designation of a Permit Consolidation Zone, a process for the Plan Applicant to appeal a determination of incompleteness or inadequacy. This process shall be the permitting authority's existing appeal process, or, in the event the existing process is not in conformance with the time frames provided by these regulations, a separate process adopted by the permitting authority's governing body.

(h) The permitting authority shall make a final determination of an appeal by a Plan Applicant within 60 calendar days after receipt of the Plan Applicant's written appeal. If the decision on appeal is not made within the 60-day period that portion of the facility compliance plan subject to the appeal, shall be deemed to be complete and adequate.

(i) All applicable individual environmental permits for the project shall be deemed to have been issued upon the filing of a complete and adequate facility compliance plan with the Secretary for Environmental Protection.

(j) The Plan Applicant and any permitting authority may mutually agree to waive the timeframes provided in this section or establish a mutually agreed upon substitute timeframe.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.4, 71035.6 and 71035.8, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10411. Process to Amend a Facility Compliance Plan.

(a) A facility compliance plan shall be drafted in such a manner as to reflect a range of operating parameters that will anticipate future operations and which provide flexibility to the Plan Applicant.

(b)(1) In the event a facility seeks a modification of operational terms beyond that contemplated and authorized by the facility compliance plan, the facility shall submit an amended facility compliance plan for consideration. The amended plan shall be reviewed pursuant to the provisions identified in Section 10410 for a new facility compliance plan.

(2) Only the portion of the plan which is being amended will be subject to review by the permitting authorities.

(3) No additional requirements shall be imposed within an amended facility compliance plan except as they are specifically applicable to the subject of the activity for which the amendment is sought.

(4)(A) A facility compliance plan shall be subject to any provision of law or regulation adopted subsequent to the approval of the plan. At the request of a permitting authority, a facility operating under a facility compliance plan may be required to incorporate language within the plan to reflect compliance with laws and regulations adopted subsequent to the initial determination of completeness and adequacy.

(B) A facility shall submit an amended facility compliance plan to a permitting authority whenever submission of an amended application for an environmental permit, for which the facility compliance plan is a substitute, would otherwise be required by law.

(5) If a provision of a facility compliance plan is found by a permitting authority to cause or threatens to cause a threat to public health or safety, or harm to the environment, the plan shall be subject to immediate modification to remove that threat or harm.

(c) To the extent not otherwise authorized by law or regulation, amendment of a facility compliance plan is not required for any of the following:

(1) Any physical change, process change, change in method of operation, addition to or any change in hours of operation, or change in the production rate, provided the change does not result in an increase in or change, in the nature of emissions or discharges from the facility beyond that contemplated in the facility compliance plan;

(2) A change in ownership, or operator;

(3) Routine maintenance and repair;

(4) Equivalent replacement of an existing facility structure, building, apparatus, or equipment, provided the replacement will not result in an increase in the nature or amount of emissions or adds a new emission parameter inconsistent with the overall emission limits set by the facility compliance plan, and/or

(5) Replacement of equipment resulting in an increase or decrease in emissions or discharges released to the environment, provided the increase is consistent with the terms of the facility compliance plan setting overall emission limits.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.4, 71035.6 and 71035.8, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

Article 5. Miscellaneous Provisions

§ 10412. Assessment of Fees.

(a)(1) Permit application fees, payable upon submittal of a facility compliance plan, shall be determined by each permitting authority and conveyed to the Plan Applicant in a single consolidated statement prepared by the Zone Administrator. The fees assessed for the facility compliance plan shall not exceed those fees applicable to the permits for which the facility compliance plan is a substitute. All costs currently recovered by a permitting authority for any aspect of the review of a permit application shall be recoverable through the fee assessed for a facility compliance plan. Any fee associated with the operation of a facility is not affected by these regulations and is payable to the permitting authority through their existing procedures.

(2) The fees submitted with the facility compliance plan shall be through separate checks payable to each permitting authority for that portion of the plan subject to their review.

(3) Where fees are allowed to be determined on an actual cost basis, the consolidated fee statement shall indicate that the fee is so based. Permitting authorities shall take adequate measures to account for fees not expended in the event a fee reimbursement becomes necessary.

(4) In the event a facility compliance plan is amended, or a participating permitting authority withdraws from a Zone, or a Zone is terminated, a facility shall pay to the appropriate permitting authority the actual cost to incorporate the amendment, or convert the facility compliance plan to an individual environmental permit.

(5) Until such time as the requisite fees for a facility compliance plan application or amendment are paid, the 45–day review period identified in Section 10410(d)(1) shall be tolled.

(6) A facility compliance plan shall be subject to all annual operating fees otherwise required for an individual environmental permit. Non–payment of any annual operating fee shall subject the portion of the facility compliance plan to termination upon 60 day notice to the facility.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.5, 71035.6 and 71035.8, Public Resources Code.

HISTORY

1. New article 5 (sections 10412–10418) and section filed 5–22–97; operative 6–21–97 (Register 97, No. 28).

§ 10413. Effective Date of a Facility Compliance Plan.

(a) A facility compliance plan becomes effective upon the date all elements of a complete and adequate plan are received by the Secretary for Environmental Protection.

(b) A facility shall not construct or expand until notified, in writing, that the facility compliance plan for such construction or expansion has been determined to be complete and adequate by all appropriate permitting authorities, except as otherwise authorized by law.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.5, 71035.6 and 71035.8, Public Resources Code.

HISTORY

1. New section filed 5–22–97; operative 6–21–97 (Register 97, No. 28).

§ 10414. Facility Compliance Plan Format.

(a) No format is specifically identified in these regulations for the submittal of an application for either a Permit Consolidation Zone or a facility compliance plan. A designated Permit Consolidation Zone may prescribe the format to be used for a facility compliance plan in the application submitted for its designation as a zone.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.5 and 71035.6, Public Resources Code.

HISTORY

1. New section filed 5–22–97; operative 6–21–97 (Register 97, No. 28).

§ 10415. Facility Compliance Plan; Term.

(a) Unless otherwise restricted by law, a facility compliance plan is effective throughout the term of the pilot program and until converted into individual environmental permits as provided in Section 10408.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.5, 71035.6 and 71035.7, Public Resources Code.

HISTORY

1. New section filed 5–22–97; operative 6–21–97 (Register 97, No. 28).

§ 10416. Reimbursement of Fees in the Event a Permit Consolidation Zone is Amended or Terminated or a Facility Compliance Plan is Withdrawn.

(a) Fees submitted by a Plan Applicant for review of a facility compliance plan shall, in the event of amendment or termination of a Zone removing a facility from inclusion within a Zone, or upon the withdrawal of the plan by the facility owner/operator, be reimbursed on a pro–rata basis reflecting the costs incurred by the permitting authorities for review of the facility compliance plan, except in those cases where the application fee for the individual environmental permit being replaced by the facility compliance plan offers no opportunity for reimbursement.

(b) In the event of amendment or termination of a Zone removing a facility from inclusion within a Zone and the Plan Applicant wishes to obtain approval for the facility, the portion of the fee that would otherwise be reimbursed to the Plan Applicant may be applied to the review of individual permits.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.5 and 71035.6, Public Resources Code.

HISTORY

1. New section filed 5–22–97; operative 6–21–97 (Register 97, No. 28).

§ 10417. Enforcement of Facility Compliance Plan.

(a) A facility compliance plan shall, in all respects, be subject to enforcement by a participating permitting authority the same as if it were an individual permit issued by the permitting authority.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.5 and 71035.6, Public Resources Code.

HISTORY

1. New section filed 5–22–97; operative 6–21–97 (Register 97, No. 28).

§ 10418. Confidentiality.

(a) These regulations do not modify any ability of a Plan Applicant or permitting authority to preserve the confidentiality of portions of the facility compliance plan that qualify for such designation under existing authority.

(b) The Zone Administrator and any participating permitting authority shall maintain the confidentiality of any portion of the facility compliance plan requested by the Plan Applicant in conformance with existing procedures for the protection of confidential documents submitted as part of a permit application.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.5 and 71035.6, Public Resources Code.

HISTORY

1. New section filed 5–22–97; operative 6–21–97 (Register 97, No. 28).

Article 6. Reporting and Review

§ 10419. Reports Required to Be Submitted by the Zone Administrator to the Review Panel.

(a) By December 31 of each year, the Zone Administrator shall submit a report to the Review Panel that states the progress of implementation of the program within the pilot Permit Consolidation Zone. The reports, shall at a minimum, contain:

(1) The number of facilities that have submitted a facility compliance plan and the status of that plan in the review/approval process;

(2) Whether any Plan Applicant used the facility compliance plan appeal process and the outcome of that appeal;

(3) Any written comments received from any party regarding the implementation of the pilot program;

(4) Any recommendation the Zone Administrator wishes to convey regarding the implementation of the pilot program and/or proposed changes in legislative language; and

(5) Any other information the Zone Administrator wishes to convey or which has been requested by the Review Panel.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Section 71305.10, Public Resources Code.

HISTORY

1. New article 6 (section 10419) and section filed 5–22–97; operative 6–21–97 (Register 97, No. 28).

[The next page is 401.]

Subdivision 4. State Delegation

Chapter 1. Unified Hazardous Waste and Hazardous Materials Management Regulatory Program

Part I. Definitions, Application, and Certification

Article 1. Introduction

§ 15100. Unified Program.

(a) Health and Safety Code division 20, chapter 6.11, and these regulations outline the requirements for the Unified Program for hazardous materials and hazardous waste management. This division integrates requirements established pursuant to:

(1) The Hazardous Waste Generator (HWG) program and the Hazardous Waste Onsite Treatment activities authorized under the permit–by–rule (PBR), conditionally authorized (CA), and conditionally exempt (CE) tiers — Health and Safety Code division 20, chapter 6.5 (generally supplemented by Cal. Code Regs., tit. 22, div. 4.5);

(2) The Aboveground Storage Tank (AST) program Spill Prevention Control and Countermeasure Plan requirements — Health and Safety Code division 20, chapter 6.67, section 25270.5(c);

(3) The Underground Storage Tank (UST) program — Health and Safety Code division 20, chapter 6.7; (generally supplemented by the Cal. Code Regs., tit. 23, chs. 16 and 17);

(4) The Hazardous Materials Release Response Plans and Inventory (HMRRP) program — Health and Safety Code division 20, chapter 6.95, article 1 (generally supplemented by Cal. Code Regs., tit. 19, §§ 2620–2734);

(5) California Accidental Release Prevention (CalARP) program — Health and Safety Code division 20, chapter 6.95, article 2 (generally supplemented by Cal. Code Regs., tit. 19, §§ 2735.1–2785.1);

(6) The Hazardous Materials Management Plans and the Hazardous Materials Inventory Statement (HMMP/HMIS) requirements — California Fire Code title 24, part 9, sections 8001.3.2 and 8001.3.3.

(b) The Secretary of the California Environmental Protection Agency (Secretary), state agency, and Certified Unified Program Agency (CUPA) responsibilities for Unified Program elements are clarified as follows:

(1) The Secretary is responsible for:

(A) Adopting regulations for the administration and implementation of the Unified Program.

(B) Consolidating, coordinating, and making consistent the requirements of the Unified Program with requirements imposed by other government agencies on businesses regulated by the Unified Program, to the maximum extent feasible.

(C) Developing a Unified Program in close consultation with Department of Toxic Substances Control (DTSC), Governor's Office of Emergency Services (OES), Office of the State Fire Marshal (SFM), State Water Resources Control Board (SWRCB), local health officers and fire services, other interested local agencies, affected businesses, environmental organizations, and interested members of the public.

(D) Implementing a Unified Program that consolidates the administration of program elements.

(E) Implementing a Unified Program that ensures coordination and consistency of the regulations adopted for each program element, to the maximum extent feasible.

(F) *Determining Unified Program implementation in each jurisdiction* and certifying an agency as the CUPA, including approval of each participating agency's (PA's) implementation.

(G) Periodically reviewing each CUPA's ability to adequately implement the Unified Program.

(H) Managing the Unified Program surcharge account.

(2) The state agencies will establish and interpret statewide standards for those Unified Program elements for which they are responsible.

(A) OES has responsibility for the HMRRP program and the CalARP program.

(B) To avoid overlap in responsibilities, CUPA and state agency responsibilities for the HMRRP and CalARP program elements are clarified as follows:

(i) OES will coordinate the consolidation of planning formats pursuant to Health and Safety Code section 25503.4.

(ii) OES will coordinate program responsibilities concerning HMRRP and CalARP activities.

(iii) OES will coordinate revisions to the single comprehensive hazardous material reporting form required pursuant to Health and Safety Code section 25503.3 and to the CalARP guidance document.

(iv) CUPAs will establish procedures for acceptance, tracking and maintenance of HMRRP, CalARP, and acutely hazardous materials registration forms from regulated businesses.

(v) CUPAs will establish procedures for acceptance, tracking and maintenance of reports of any release or threatened release of a hazardous material which poses the potential for significant hazard.

(vi) CUPAs will integrate information from the business plans submitted into the development and implementation of an area plan, as defined in Health and Safety Code chapter 6.95, article 1, within their jurisdiction.

(vii) CUPAs shall ensure emergency response personnel and OES full access to information collected and maintained regarding implementation of HMRRP and CalARP program elements.

(C) SFM has responsibility for California Fire Code sections 8001.3.2 and 8001.3.3, as adopted pursuant to Health and Safety Code section 13143.9, concerning the HMMP/HMIS.

(D) To avoid overlap in responsibilities, CUPA and state agency responsibilities for the HMMP/HMIS (Health & Saf. Code, § 25404(c)(6)) are clarified as follows:

(i) SFM will coordinate program responsibilities concerning the HMMP/HMIS.

(ii) HMMP/HMISs, when required, will comply with Health and Safety Code sections 25500 through 25545 and California Code of Regulations, title 19, division 2, chapter 4, section 2620 et. seq.

(iii) Each CUPA will ensure full access to and availability of information submitted under section 8001.3(b) and (c), part 9 of the California Code of Regulations, title 24, to any chief of any county or city fire department or district with shared responsibility for protection of the public health and safety of the environment. The CUPA will forward the data collected, within 15 days of receipt and confirmation, to the county or city fire department or district.

(E) SWRCB has responsibility for the UST program and represents the Regional Water Quality Control Boards for the AST Spill Prevention Control and Countermeasure plan verification.

(F) To avoid overlap in responsibilities, CUPA and state agency responsibilities for the UST program elements are clarified as follows:

(i) A CUPA may oversee the abatement of unauthorized releases of hazardous substances from underground storage tanks pursuant to the Local Oversight Program (LOP) listed in Health and Safety Code section 25297.1, providing the following criteria are met:

1. The CUPA must demonstrate its capability to oversee corrective action by having two years of acceptable experience implementing the underground storage tank program under Regional Water Quality Control Board oversight after which time the CUPA may apply to the SWRCB to enter into an agreement for the LOP.

2. The funding source available to the SWRCB is sufficient to cover the LOP agreements.

(G) DTSC has responsibility for the HWG and Onsite Hazardous Waste Treatment programs.

(H) To avoid overlap in responsibilities, CUPA and state agency responsibilities for the HWG and Onsite Hazardous Waste Treatment elements are clarified as follows:

(i) DTSC will coordinate, to the maximum extent feasible, the responsibilities concerning hazardous waste generators and onsite hazardous waste treatment activities with the CUPA at a hazardous waste Treatment, Storage and Disposal (TSD) facility.

(ii) CUPAs may refer enforcement cases to the DTSC. DTSC may accept enforcement cases at its discretion.

(iii) CUPAs will establish procedures to accept the following reports from businesses:

1. Contingency Plan activation report for permitted facilities (Cal. Code Regs., tit. 22, § 66264.56(j) and 66265.56(j)).

2. Release reports for tank systems or secondary containment systems reporting the release of a reportable quantity (Cal. Code Regs., tit. 22, § 66265.196(e)).

3. Tiered Permitting Closure Reports.

(iv) CUPAs will review source reduction documents required of businesses pursuant to Health and Safety Code sections 25244.19, 25244.20, and 25244.21; and may impose civil penalties pursuant to Health and Safety Code section 25244.21(a).

(v) Hazardous Waste Manifest documents will continue to be submitted to DTSC.

(vi) Hazardous Waste Manifest Exception Reports will continue to be submitted to DTSC.

(vii) DTSC will retain responsibility for hazardous waste classifications.

(viii) DTSC will retain responsibility for overseeing exports of hazardous waste out of the country.

(ix) DTSC and the U.S. Environmental Protection Agency will retain responsibility for issuing EPA numbers.

(x) DTSC will retain responsibility for the following elements of the Hazardous Waste Source Reduction and Management Review Act of 1989 (Health & Saf. Code, § 25244.12 et. seq.):

1. Conduct a technical and research assistance program pursuant to Health and Safety Code section 25244.17.

2. Select at least two categories of generators by SIC Code every two years to identify successful source reduction measurers pursuant to Health and Safety Code section 25244.18(a).

3. Impose civil penalties pursuant to Health and Safety Code section 25244.18(d)(2).

4. Report to the Legislature pursuant to Health and Safety Code section 25244.22.

(xi) DTSC will retain the responsibility to collect Biennial Reports specified in California Code of Regulations, title 22, section 66262.41.

(xii) DTSC will notify and coordinate with the appropriate CUPA regarding any investigation it will conduct of hazardous waste generators; hazardous waste generators conducting treatment conditionally authorized pursuant to Health and Safety Code section 25200.3; hazardous waste generators conducting treatment conditionally exempted pursuant to Health and Safety Code section 25201.5; and facilities deemed to hold a permit-by-rule pursuant to the regulations adopted by DTSC. Information related to an ongoing investigation shall remain confidential.

(I) State agencies' responsibilities include:

(i) Maximizing coordination, consolidation, and consistency of their Unified Program element(s) within the Unified Program.

(ii) Participating in evaluating CUPAs as defined by the Secretary.

(iii) Providing necessary guidance, training, and support to Unified Program Agencies.

(3) The Unified Program Agencies' responsibilities include implementing the requirements in Health and Safety Code chapter 6.11, these regulations, and the requirements for each program element.

NOTE: Authority cited: Sections 25404(b), 25404.1(b)(1), 25404.3(f) and 25404.6(c), Health and Safety Code. Reference: Sections 25404(b), (c) and (d), 25404.1, 25404.2(a) and (c), 25404.3(f), 25404.5 and 25533(f), Health and Safety Code.

HISTORY

1. New division 1, subdivision 4, chapter 1, article 1 and section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New division 1, subdivision 4, chapter 1, article 1 and section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New division 1, subdivision 4, chapter 1, article 1 and section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New division 1, subdivision 4, chapter 1, article 1 and section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-14-94 order including new subsections (a)-(a)(6), subsection relettering, amendment of newly designated subsections (b)-(b)(1), new subsection (b)(2) and subsection renumbering, repealer of former subsections (b)-(b)(6), new sections (c)-(g), subsection relettering and new Figure 1 designator transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
6. New part 1 heading, amendment of subsection (b)(4), new subsections (b)(4)(A)-(B), and amendment of NOTE filed 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 1-8-99 order, including further amendment of subsections (b)(4)-(b)(4)(B), transmitted to OAL 4-2-99 and filed 5-14-99 (Register 99, No. 20).
8. Amendment of section heading and section filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).
9. Change without regulatory effect amending subsections (a)(1), (b)(1)(F), (b)(2)(B), (b)(2)(B)(ii), (b)(2)(B)(iv), (b)(2)(B)(vii), (b)(2)(D)(iii), (b)(2)(H)(iii)2., (b)(2)(H)(iv) and (b)(2)(H)(ix)-(x) filed 3-21-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

Article 2. Definitions

§ 15110. Unified Program Definitions.

(a) Applicant Agency means a county, city or other qualified local agency that is applying to the Secretary to become a Certified Unified Program Agency.

(b) Certified Unified Program Agency or CUPA means the agency certified by the Secretary to implement the Unified Program in a specified jurisdiction, pursuant to Health and Safety Code chapter 6.11.

(c) Data Collection. For the purposes of this division, terms related to the Unified Program information have the following meaning:

(1) Data elements are the information components required by applicable statutes or regulations.

(2) Data transmission protocol means a standard for sharing electronic data.

(3) Electronic reporting or sharing of data means transferring data or information using an electronic or magnetic media.

(4) File format means how data is packaged in any mode.

(5) Format means the order, arrangement, style, and organization of the data elements comprising the Unified Program Consolidated Form.

(6) Media means the type of device used to share data from the source to a recipient. Examples include telecommunications transmissions, such as e-mail or direct computer-to-computer links and magnetic media such as disks, diskettes, tapes, and CD ROM.

(7) Mode means the method by which data is shared. Common modes include e-mail, diskette, tape, and CD ROM. Mode encompasses the file format and data transmission protocol.

(8) Multi-media means more than one environmental surrounding (air, water, or soil).

(d) Enforcement Actions. There are two types of Unified Program enforcement actions:

(1) Formal Enforcement means a civil, criminal, or administrative action that mandates compliance, imposes sanctions, and results in an enforceable agreement or order. Enforceable agreement or order means the instrument creates an independent, affirmative obligation to comply and imposes sanctions for the prior failure to comply. Sanctions include fines

and penalties as well as other tangible obligations, beyond returning to compliance, that are imposed upon the regulated business.

(2) Informal Enforcement means a notification to the regulated business of non-compliance and establishes an action and a date by which that non-compliance is to be corrected. Examples include a letter or notice of violation. These actions do not impose sanctions.

(e) Inspection Types. There are two types of Unified Program inspections, which for reporting purposes are mutually exclusive:

(1) Routine Inspection is a regularly scheduled inspection to evaluate compliance pursuant to one or more program elements.

(2) Other Inspection includes, but is not limited to, regulatory field activity such as complaint investigations, enforcement follow-up, closures, tank installation and/or removal oversight, tank cleaning, and release investigations. It does not include routine inspections or field or site visits whose principal purposes are informational or educational, pollution prevention education, verification of administrative information, or orientation of new owners or operators. "Other Inspection" also includes verification inspections for the administrative requirement of Health and Safety Code section 25270.5, subdivision (c), for owners and operators of aboveground storage tanks to prepare a spill prevention control and countermeasure plan.

(f) Participating agency (PA) means a state or local agency that has a formal agreement with the CUPA to implement one or more a program elements as part of the Unified Program.

(g) Program Element means one of the six sets of requirements listed in section 15100(a) or any other requirements incorporated pursuant to Health and Safety Code chapter 6.11, section 25404.2(d).

(h) Regulated Business means any of the following:

(1) "person" as defined in:

(A) the Hazardous Waste Management Program, Health and Safety Code section 25118;

(B) the California Hazardous Substances Tax Law, Revenue and Taxation Code part 22, division 2, section 43006;

(C) the HMRRP program, title 19, section 2650;

(D) the CalARP program, Health and Safety Code section 25532(m);

(E) the UST program, Health and Safety Code section 25281(*l*); and

(F) the AST program, Health and Safety Code section 25270.2(f).

(2) "business" as defined in the HMRRP program, Health and Safety Code sections 25501(d) and 25501.4.

(3) "facility" as defined in the UST program, Health and Safety Code section 25281(f).

(4) "tank facility" as defined in the AST program, Health and Safety Code section 25270.2(*l*).

(5) "hazardous waste facility" as defined in the Hazardous Waste Management program, Health and Safety Code section 25117.1.

(6) "stationary source" as defined in the CalARP program, California Code of Regulations, title 19, section 2735.3(uu).

(i) Signed or signature for purposes of electronic submissions means any symbol, including a digital signature defined in Government Code section 16.5, executed or adopted by a party with present intention to authenticate a writing.

(j) Surcharge means an element of the single fee assessed by the CUPA on each regulated business that covers the necessary and reasonable cost of the state agencies in carrying out their responsibilities pursuant to Health and Safety Code section 25404.5(b).

(k) Unified Program Agency (UPA) is the Certified Unified Program Agency (CUPA) or participating agency (PA) that implements one or more Unified Program elements.

(*l*) Unified Program Consolidated Form (UPCF) is a standardized set of forms to be used by CUPAs to collect Unified Program information from regulated businesses. The UPCF is a single, comprehensive format that consolidates business-to-CUPA reporting requirements within the Unified Program.

(m) Unified Program Data Dictionary (data dictionary) defines data elements, data field size and type, and edit criteria for regulatory data that shall be collected and retained by a CUPA. It has the following sections:

(1) Business Section: for information reported from businesses to CUPAs. [Div. 3, subd. 1, chs. 1–4]

(2) CUPA Section: for CUPA-to-state reporting of CUPA activities or other information that shall be collected and retained by a CUPA and reported pursuant to section 15290. [Div. 3, subd. 1, ch. 5, Unified Agency Reporting]

(n) Unified Program Facility Permit means those permits issued under the Unified Program. The permit may be a single permit or multiple permits in a single package which shall minimize duplicate information. It includes the underground storage tank permit, permit-by-rule, and any other permit or authorization requirements found under any local ordinance or requirement relating to the generation or handling of hazardous waste or materials. The Unified Program Facility Permit does not include the permitting requirements of a local ordinance that incorporates provisions of the Uniform Fire or Building Code.

NOTE: Authority cited: Sections 25404(b), (c), (d) and (e), Health and Safety Code. Reference: Sections 25404(c) and (d), 25404.5(a) and 25532(k), Health and Safety Code; Section 43006, Revenue and Taxation Code; and the 1996 United States Environmental Protection Agency Enforcement Response Policy for the Resource Conservation and Recovery Act.

HISTORY

1. New article 2 and section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New article 2 and section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New article 2 and section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New article 2 and section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-14-94 order including amendment of subsections (a)(3)-(a)(7), (a)(9)-(a)(11) and repealer of subsection (a)(12) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
6. Amendment of section and NOTE filed 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 1-8-99 order, including further amendments, transmitted to OAL 4-2-99 and filed 5-14-99 (Register 99, No. 20).
8. Amendment of subsection (d)(6) and NOTE filed 3-5-2002; operative 3-5-2002 (Register 2002, No. 10).
9. Amendment of subsection (a) — Unified Program Data Directory, subsections (1)-(2), and subsection (a) — Unified Program Consolidated Form filed 11-16-2004; operative 12-16-2004 (Register 2004, No. 47).
10. Amendment of section heading and section filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).
11. Change without regulatory effect amending subsection (f) filed 3-21-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

Article 3. Application Process

§ 15120. Certified Unified Program Agency Applicants.

(a) Counties must apply.

(b) Cities or other local agencies that qualify pursuant to Health and Safety Code section 25404.1(b)(2) may apply.

(c) A city that incorporates after January 1, 1996, may apply for certification as a CUPA pursuant to Health and Safety Code section 25404.1(b)(2)(B) and section 15130(b) of this title. Any request to the Secretary for approval to apply for certification shall be submitted within 180 days of incorporation.

(d) Two or more counties, cities or local agencies that propose to form a Joint Powers Agency (JPA) may apply on or before January 1, 1996.

(1) Cities or other local agencies that have formed or propose to form a JPA may apply if one of the following is true:

(A) A maximum of two member agencies of the JPA have not implemented the HMRRP program or the UST program prior to December 31,

1995, and at least one member agency has implemented the HMRRP program or the UST program prior to December 31, 1995; or

(B) The JPA has an agreement with the county to implement the Unified Program in the JPA's jurisdiction; or

(C) The county is a member agency of the JPA.

(e) Each county shall and each city or local agency within the county that qualifies pursuant to Health and Safety Code section 25404.1(b)(2) and chooses to apply, shall apply for certification on or before January 1, 1996.

(f) An applicant agency shall apply to the Secretary according to the provisions of sections 15130, 15150, and 15160.

(g) Applications shall be valid if they meet the requirements of this article and one copy is mailed to: California Environmental Protection Agency, Unified Program Section, 1001 "I" Street, P.O. Box 2815, Sacramento, California 95812.

NOTE: Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Section 25404.1(b), Health and Safety Code.

HISTORY

1. New article 3 and section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New article 3 and section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New article 3 and section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New article 3 and section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11-14-94 order including new subsections (c)(1)-(c)(1)(iii) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
6. Amendment of section heading and section filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).

§ 15130. Application Notices.

(a) A non-county agency, as defined in section 15120(c) and (d), that intends to apply for certification as a CUPA shall file with the Secretary and the county within which the city or other local agency is located, a letter that expresses the applicant's intent to apply. This "intent to apply" letter shall be valid if mailed to: California Environmental Protection Agency, Unified Program Section, 1001 "I" Street, P.O. Box 2815, Sacramento, California 95812.

(b) Any request to the Secretary by a non-county agency for approval to apply for certification pursuant to Health and Safety Code section 25404.1(b)(2)(B) shall be submitted in writing.

(1) In its request, the applicant shall specify the date it received the county's agreement or the reasons for failing to enter into an agreement. Any relevant correspondence to or from the county shall be attached to the request.

(2) The Secretary shall respond within 45 days of receiving the request.

NOTE: Authority cited: Sections 25204(b) and 25404.6(c), Health and Safety Code. Reference: Section 25404.1(b), Health and Safety Code.

HISTORY

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11-14-94 order including amendment of subsections (a)(1), (b)(1) and (d)-(g) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
6. Amendment of section heading and section filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).

§ 15140. Must proposed participating agencies enter into final agreements with the applicant agency before the application is submitted? [Repealed]

NOTE: Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code. References: Section 25404.3(d), Health and Safety Code.

HISTORY

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11-14-94 order including amendment of subsection (a) and NOTE and new Figure 2 designator transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
6. Repealer filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).
7. Change without regulatory effect amending section heading filed 3-21-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15150. Information Provided in an Application.

(a) Identify which agency will be the point of contact within the CUPA.

(1) An applicant agency shall designate only one administrative body, such as an internal department or office within a county or city, within that jurisdiction as the point of contact for Unified Program implementation.

(2) The governing body of the applicant agency may designate itself as the point of contact by not specifying any other.

(3) The applicant agency shall provide the name, address, phone number, e-mail and facsimile number of the contact (use appendix A).

(b) The application for certification as a CUPA shall be signed by at least one elected or appointed official who is authorized to represent the jurisdiction.

(c) The application for certification shall include an Authorizations Section including a list and brief description of all ordinances and resolutions used in the Unified Program.

(1) If overlapping authority will arise pursuant to certification under this division, the applicant agency shall include in the application, a discussion of how jurisdictional authority will be managed to ensure that health and safety are maintained within the jurisdiction.

(2) Copies of all UST ordinances required by Health and Safety Code chapter 6.7 must be provided.

(d) The application for certification shall include an agreements section including copies of all agreements or draft agreements between the applicant agency and proposed PA's.

(1) The agreements section shall include draft or final agreements between the applicant agency and all proposed PA's. Final copies of all agreements must be submitted to the Secretary prior to certification.

(A) If an applicant agency proposes that any agency other than itself implement any aspect of the single fee system, including the surcharge, the written agreement shall specify responsibilities of each agency. The written agreement shall:

(i) Identify responsibility for absorbing funds lost on non-payment of fees.

(ii) Identify under what conditions and authority fees will be waived.

(B) Include procedures for removing a PA required pursuant to 15180(e)(6).

(C) CUPAs may satisfy information collection, retention, and management requirement through agreements with PA's that serve as the repository of the information.

(e) The application for certification shall be constructed in sections so as to meet the requirements and structure of appendix A, including the following:

(1) A cover sheet. Use appendix A and complete all appropriate information.

(2) For a county applicant, documentation that cities within the county either intend or do not intend to apply to be a CUPA. Documentation may take the form of a listing of all cities within the county with an indication of whether they intend to apply or not.

(3) A description of the geographic scope of the proposed Unified Program in the jurisdiction.

(4) The number of regulated businesses within the jurisdiction, for each program element. Use appendix B, table 1 to provide this information.

(5) The organizational structure of the proposed Unified Program in the jurisdiction.

(6) A Unified Program Implementation Plan that provides:

(A) A description or implementation timeline that addresses all phases from startup through full operation.

(B) Specific information required for the Secretary's evaluation of the application pursuant to section 15170.

(C) For a transition from multiple billing statements and collection agencies within the Unified Program to a single billing statement and collection agency within the Unified Program, this shall:

(i) Provide for a transition period no longer than five years;

(ii) Provide for regulated businesses to receive a single billing statement annually that includes all recurring United Program activity fees;

(iii) Provide for regulated businesses to remit Unified Program fees with a single payment; and

(iv) Include provisions for instances of non–payment.

(7) Adequate information to determine that the applicant agency and any proposed PA's meet education, expertise and training requirements specified in sections 15260 and 15270.

(A) Table 2 and table 4 may be used to provide this information.

(B) If Table 2 and table 4 are not used, the information required in the tables must be provided in some form.

(8) A certification that the administrative procedures of the proposed Unified Program will meet the requirements of section 15180. Use appendix B.

(9) A Unified Program Facility Permit Plan that meets the requirements of section 15190.

(10) An Inspection and Enforcement Program Plan that meets the requirements of section 15200.

(11) A Fee Accountability Program in compliance with section 25404.5(c) of the Health and Safety Code and with section 15210 of this title.

(12) A Single Fee System Implementation Plan that meets the requirements of section 15210.

(13) A budget and funding mechanism for the Unified Program that meets the requirements of section 15170(c), staff time allocations, and certification that adequate resources exist to carry out the Unified Program. Appendix B, table 3 may be used to provide information on staff time allocations. Appendix B will be used to certify adequate resources exist.

(14) A description of how the CUPA will fulfill reporting requirements and certification that it will meet requirements of article 6 below.

(15) A summary of program implementation history that shall include the following information. Appendix B, table 2 may be used to provide this information.

(A) A list of the Unified Program elements that have been managed by the applicant agency and PA's for the past three years. This list shall include voluntarily consolidated programs.

(B) A summary of inspection and enforcement activities within the scope of the Unified Program, undertaken within the past three years, including the types and numbers of inspections conducted and enforcement actions handled.

(16) A description of recordkeeping and costs accounting systems.

(17) A description of the applicant agency's compliance with the criteria identified in the California Code of Regulations, title 22, section 66272.10 except subdivisions (b)(2) and (b)(3).

(18) A description of any additional programs incorporated into the Unified Program.

(19) An explanation of why the Secretary need not be concerned that certification of the applicant agency might lead to adverse impacts on the county.

(20) A description of how certification of the proposed Unified Program will lead to less fragmentation between jurisdictions within the county.

(f) The application for certification shall contain a Single Fee System Implementation Plan that provides for a transition from multiple billing statements and collection agencies within the Unified Program, to a single billing statement and collection agency within the Unified Program.

(1) The applicant agency shall implement the Single Fee System Implementation Plan upon certification.

(2) The applicant agency shall provide for public participation and review of the proposed Single Fee System Implementation Plan.

(3) A CUPA that has partially implemented the single fee system but requires an extension of the transition period may petition the Secretary for an exception of the five–year limit.

(A) The CUPA shall submit such petition at least one year prior to expiration of the five–year limit.

(B) The Secretary shall rule on such petitions within 180 days of receipt of the request for extension.

NOTE: Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Sections 25404.1(b), 25404.2, 25404.3(b), (c) and (d) and 25404.5, Health and Safety Code.

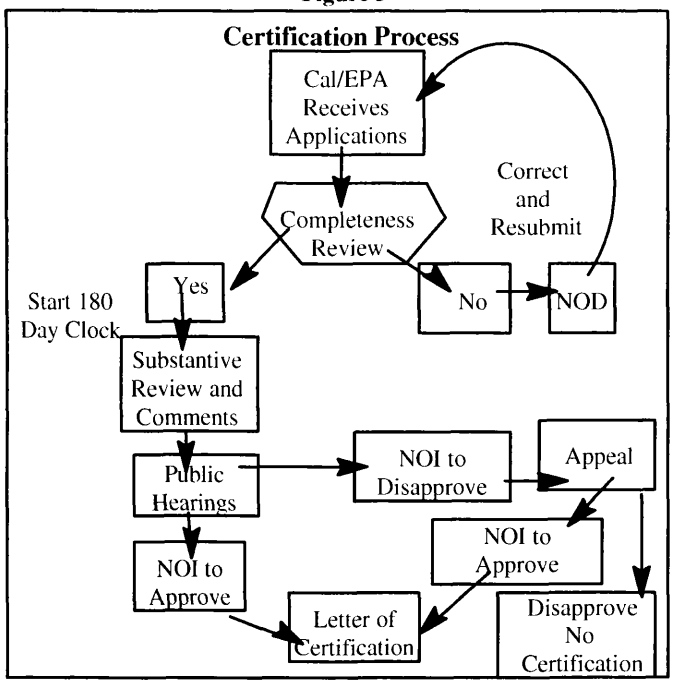
HISTORY

1. New section filed 11–14–94 as an emergency; operative 11–14–94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–20–95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–7–95 as an emergency; operative 3–7–95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–5–95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–7–95; operative 7–7–95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–4–95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–3–95 as an emergency; operative 11–3–95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3–2–96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11–14–94 order including amendment of subsection (a)(1), new subsection (a)(3), amendment of subsection (b), new subsection (c)(2), amendment of subsections (e)–(e)(2), (e)(4), (e)(6)(B), (e)(7)–(e)(10), (e)(12) and (e)(14)–(e)(16), repealer of subsection (e)(16)(B) and subsection relettering, and amendment of subsections (e)(18) and (e)(20) transmitted to OAL 12–15–95 and filed 1–31–96 (Register 96, No. 5).
6. Amendment of section heading and section filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).
7. Change without regulatory effect amending subsections (d)–(d)(1), (d)(1)(C), (e)(7)–(e)(7)(B), (e)(2)(13), (e)(15)(A) and (e)(17) filed 3–21–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

Article 4. Certification Process and Responsibilities

§ 15160. Certification Process.

Figure 3



(a) Completeness review.

(1) Each application shall be reviewed to determine whether all required information has been provided. Such review shall be finished within 90 days of receipt of the application. Within the 90–day period:

(A) The Secretary shall send a notice of completeness to an applicant agency whose application has been determined to contain all necessary components; or

(B) The Secretary shall return an incomplete application to the applicant agency.

(i) The Secretary shall notify an applicant agency of an incomplete application by using a Notice of Deficiency (NOD).

(ii) In the NOD, the Secretary shall specify those provisions of the application that are not sufficient and the date by which the additional information is due.

(b) State agency review and recommendation.

(1) Applications that are found to be complete shall be reviewed pursuant to Health and Safety Code section 25404.3(b). In determining whether an applicant agency should be certified, the Secretary shall consider comments from the following or their designee:

Director of Department of Toxic Substances Control;

Director of the Office of Emergency Services;

State Fire Marshal; and

Executive Officer and Chairperson of the State Water Resources Control Board.

(2) Comments and recommendations to the Secretary shall be based on analysis of the application contents and consideration of the requirements of this division.

(c) Public hearing.

(1) The Secretary shall hold a public hearing regarding the application for certification.

(2) The Secretary may group public hearings for efficiency purposes.

(3) The Secretary shall consider comments received as part of the public hearing in the determination of whether an applicant should be certified.

(d) The Notice of Intent (NOI).

(1) The Secretary shall complete the review process and issue an NOI within 180 days of receipt of the complete application for certification.

(A) The Secretary shall issue an NOI to disapprove the application for certification if the Secretary finds the applicant agency should not be certified. The NOI to disapprove shall identify those areas of the Unified Program that are deficient.

(B) The Secretary shall issue an NOI to approve if the Secretary intends to approve an application for certification.

(2) During periodic review of the Unified Program, or review of an amended application, if the Secretary finds the Unified Program or the Unified Program implementation to be deficient, the Secretary shall issue an NOI to withdraw certification. The NOI shall identify those areas of the Unified Program that are deficient.

(e) Final Decision.

(1) The Secretary's final decision shall be issued in writing to the applicant agency within 30 days of issuing the NOI except as provided in section 15160(f). The certification shall include the date upon which the CUPA's authority shall commence.

(2) For purposes of this division and the California Code of Regulations, title 22, division 4.5, "certification" of a CUPA shall constitute "designation" pursuant to Health and Safety Code section 25180, of the responsible agency implementing chapter 6.5 of the Health and Safety Code, pursuant to the California Code of Regulations, title 22, section 66272.10.

(f) Certification Decision Appeal Process.

(1) Within 30 days of receipt of an NOI to disapprove certification, the applicant agency may respond to the reasons specified and correct the deficiencies in its application.

(2) Within 30 days of receipt of an NOI to withdraw certification, the CUPA may respond to the reasons specified and correct the deficiencies in its Unified Program.

(3) In addition to its rights pursuant to (1) above, the applicant agency may request a second public hearing, at which time the Secretary shall hear the applicant agency's response to the reasons specified in the NOI to disapprove.

(4) The appeal process shall be completed within 60 days of receipt of the appeal.

(5) The Secretary's final decision on the certification decision appeal shall be issued in writing.

NOTE: Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Sections 25404(d), 25404.3 and 25404.4(a), Health and Safety Code.

HISTORY

1. New article 4 and section filed 11–14–94 as an emergency; operative 11–14–94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–20–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 95, No. 10).
3. New article 4 and section refiled 3–7–95 as an emergency; operative 3–7–95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–5–95 or emergency language will be repealed by operation of law on the following day.
4. New article 4 and section refiled 7–7–95; operative 7–7–95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–4–95 or emergency language will be repealed by operation of law on the following day.
5. New article 4 and section refiled 11–3–95 as an emergency; operative 11–3–95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3–2–96 or emergency language will be repealed by operation of law on the following day.
6. Certificate of compliance as to 11–14–94 order including new Figure 3 designator, amendment of subsections (a)(1)(A), (b)(1) and (c)(1), new subsections (c)(2)–(c)(3) and amendment of subsections (d)(1), (e)(1)–(e)(2) and (f)(3) transmitted to OAL 12–15–95 and filed 1–31–96 (Register 96, No. 5).
7. Amendment of section heading and section filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).
8. Change without regulatory effect amending subsections (b)(1) and (e)(2) filed 3–21–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15170. Criteria the Secretary Will Use to Evaluate Applications.

(a) The Secretary will evaluate applications based on the following:

(1) Adequacy of education, expertise, and training as required by sections 15260 and 15270.

(2) Adequacy of proposed resources including an analysis of:

(A) The number and type of regulated businesses within the jurisdiction;

(B) An estimate of the annual number of compliance and complaint inspections;

(C) The time allocation requirements of local agency staff shall be computed on a full-time equivalent basis, not to exceed 1776 work hours per year per person, for the following:

(i) Inspections and the related travel, research, analysis of findings, and documentation;

(ii) Inspection and enforcement activities including warnings, notices, meetings, hearings, legal proceedings, and documentation;

(iii) Permit activities including application reviews, modifications and revisions, and facility evaluations;

(iv) Training including field, meetings, seminars, workshops, courses and literature reviews; and

(v) Management including day-to-day operation scheduling and supervision.

(D) An estimate of required staff and supervisory personnel to manage the single fee system, surcharge and fee accountability system;

(E) The number of support staff, both technical and non-technical, for all program elements; and

(F) Description of contacts, working relationship with local prosecution and law enforcement agencies (i.e., district attorneys, strike force memberships, etc.).

(3) Proposed budget resources and funding mechanisms. The applicant agency shall include as part of the application, a summary of projected annual funding and expenses for the entire local Unified Program. Adequacy of budget resources and funding mechanisms shall be calculated as the ratio of funding to expenses, a value of one being the standard for most adequate.

(4) Past performance of the applicant agency and its proposed PA's in implementing hazardous materials and hazardous waste management programs.

(5) Record keeping and cost accounting systems proposed for the Unified Program, including:

(A) Elements required by the Secretary pursuant to Health and Safety Code section 25404(c);

(B) A method for calculating program costs;

(C) Permit fee structure;

(D) Fee collection process; and

(E) Data management.

(6) Compliance with the criteria in California Code of Regulations, title 22, section 66272.10, except for the requirement of paragraph (2) of subdivision (b) of that section related to countywide jurisdiction and paragraph (3) of subdivision (b) of that section related to hazardous waste facilities.

(7) Additional programs, including but not limited to programs such as hazardous waste source reduction and pollution prevention programs, incorporated in the Unified Program.

(8) Identified adverse impacts on the county. The Secretary will give particular consideration to written comments or comments received during the public hearing.

(9) The Unified Program throughout the entire county in which the applicant agency is located will be less fragmented between jurisdictions, as compared to before January 1, 1994, with regard to the administration of the provisions specified in Health and Safety Code section 25404(c). The Secretary shall consider, but shall not be limited to, the following measures of fragmentation. The applicant agency shall justify its certification with respect to these measures in the implementation plan required pursuant to California Code of Regulations, title 27, section 15150(e)(6).

(A) The number of agencies managing the six Unified Program elements listed in Health and Safety Code section 25404(c) within the county prior to January 1, 1994, and the number of agencies managing those program elements as proposed by the applicant agency.

(B) The number of agencies a regulated business had to work with for the Unified Program elements prior to January 1, 1994, and the number of agencies a regulated business will have to work with as proposed by the applicant agency.

(10) Countywide coordination and consistency. The Secretary shall consider, but not be limited to the following:

(A) Agreements among the county, city, and local agency applicants indicating consistency with a countywide Unified Program.

(11) The Secretary shall not certify an applicant agency that proposes to include PA's in the Unified Program, unless there is a finding that:

(A) It meets the requirements of Health and Safety Code section 25404.3(d)(1).

(B) The proposed PA's have met the education, training and experience requirements identified in sections 15260 and 15270, and have adequate resources to implement the program element(s) that the applicant agency has proposed it will take on.

(C) All necessary agreements are in place, pursuant to Health and Safety Code section 25404.3(d)(3).

(12) The requirements of sections 15160(b) and 15160(c).

(13) The implementation plan for the consolidation of permits, inspections, enforcement, and fees.

(14) Documentation of authority to implement program elements.

(15) If the program will be fully operational no later than one year after certification.

NOTE: Authority cited: Sections 25404(b), 25404.2(c), 25404.3(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404.2(a) and (c) and 25404.3(b), (c) and (d), Health and Safety Code.

HISTORY

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11-14-94 order including amendment of subsections (b), (b)(2), (c), (g), (h), (j)(1), (k)-(k)(2) and (l)(1)-(l)(3), new subsection (m) and subsection relettering, amendment of newly designated subsection (n)(2) and repealer of newly designated subsection (n)(4) and subsection renumbering transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
6. Amendment of section heading and section filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).
7. Change without regulatory effect amending subsections (a)(2)(F), (a)(4), (a)(6)-(7), (a)(10)-(11) and (a)(11)(B) filed 3-21-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

Part II. Operations

Article 5. Implementation and Maintenance of the Unified Program

§ 15180. Maintenance of Certification and Administration.

(a) A CUPA shall implement the Unified Program consistent with the implementation plan submitted in compliance with section 15150(e)(6) and these regulations.

(b) A CUPA shall maintain certification through the administration of the Unified Program in compliance with these regulations.

(c) Any agency designated by the Secretary as the CUPA pursuant to Health and Safety Code section 25404.3(f)(2) must comply with the requirements in these regulations.

(d) Any local agency authorized to continue its role, responsibilities, and authority pursuant to Health and Safety Code sections 25404.3(f)(2) or 25533(f) shall comply with the requirements in the regulations placed on CUPAs with the exception of articles 3, 4, and 7, sections 15210, 15220, 15240, 15250, and 15260.

(e) The CUPA shall establish and implement the following Unified Program administrative procedures.

(1) Public participation procedures that:

(A) Ensure receipt and consideration of comments from regulated businesses and the public.

(B) Coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element.

(C) Coordinate, consolidate, and make consistent public notices for activities related to any Unified Program element.

(2) Records maintenance procedures that include:

(A) Identification of the records maintained.

(B) Minimum retention times.

(C) Archive procedures.

(D) Proper disposal methods.

(3) Procedures for responding to requests for information from the public, from government agencies with a legal right to access the information, or from emergency responders, including methods to prevent the release of confidential and trade secret information.

(4) Procedures for forwarding the HMRRP information in accordance with Health and Safety Code sections 25503.5(d) and 25509.2(a)(3).

(5) Financial management procedures that include:

(A) A single fee system in compliance with section 15210;

(B) A fee accountability program in compliance with section 15220; and

(C) A surcharge collection and reimbursement program in compliance with section 15250.

(6) Procedures for the withdrawal of a PA that include:

(A) Providing notice;

(B) Stating causes;

(C) Taking public comment;

(D) Making appeals; and

(E) Resolving disputes.

NOTE: Authority cited: Sections 25404(b) and (e) and 25404.6, Health and Safety Code. Reference: Sections 25103, 25404.2(a) and (c), 25404.3(d), 25404.4(a)(1), 25404.5, 25500, 25506, 25509.2(a)(3) and 25534.5, Health and Safety Code; and Section 6253 et seq., Government Code.

HISTORY

1. New article 5 and section filed 11–14–94 as an emergency; operative 11–14–94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–20–95 or emergency language will be repealed by operation of law on the following day.
2. New article 5 and section refiled 3–7–95 as an emergency; operative 3–7–95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–5–95 or emergency language will be repealed by operation of law on the following day.
3. New article 5 and section refiled 7–7–95; operative 7–7–95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–4–95 or emergency language will be repealed by operation of law on the following day.
4. New article 5 and section refiled 11–3–95 as an emergency; operative 11–3–95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3–2–96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–14–94 order including amendment of subsections (a), (a)(1)(A), repealer of subsection (a)(2)(A)(iv) and subsection renumbering, amendment of subsection (a)(2)(B), repealer of subsection (a)(2)(D) and subsection relettering, amendment of newly redesignated subsections (a)(2)(E)–(a)(2)(F), new subsections (a)(2)(G)–(a)(2)(H), amendment of subsection (a)(3)(A)(i), repealer of subsection (a)(3)(A)(ii)–(a)(3)(A)(iii) and subsection renumbering, redesignation and amendment of part of subsection (a)(7) as new (a)(7)(A) and new (a)(7)(B), and amendment of subsections (a)(8)(B), (a)(9) and (a)(10) transmitted to OAL 12–15–95 and filed 1–31–96 (Register 96, No. 5).
6. Amendment of subsections (a)(2)(E)–(G) and NOTE filed 12–20–96 as an emergency; operative 12–20–96 (Register 96, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–21–97 or emergency language will be repealed by operation of law on the following day.
7. Amendment of subsections (a)(2)(E)–(G) and NOTE refiled 4–11–97 as an emergency; operative 4–11–97 (Register 97, No. 15). A Certificate of Compliance must be transmitted to OAL by 8–11–97 or emergency language will be repealed by operation of law on the following day.
8. Amendment of subsections (a)(2)(E)–(G) and NOTE refiled 7–30–97 as an emergency; operative 7–30–97 (Register 97, No. 31). A Certificate of Compliance must be transmitted to OAL by 12–1–97 or emergency language will be repealed by operation of law on the following day.
9. Amendment of subsections (a)(2)(E)–(G) and NOTE refiled 12–2–97 as an emergency; operative 12–2–97 (Register 97, No. 49). A Certificate of Compliance must be transmitted to OAL by 4–1–98 or emergency language will be repealed by operation of law on the following day.
10. Reinstatement of section as it existed prior to 12–2–97 emergency amendment by operation of Government Code section 11346.1(f) (Register 98, No. 14).
11. Amendment of subsections (a)(2)(E)–(G) and NOTE filed 3–31–98 as an emergency; operative 3–31–98 (Register 98, No. 14). A Certificate of Compliance must be transmitted to OAL by 7–29–98 or emergency language will be repealed by operation of law on the following day.
12. Amendment of subsections (a)(2)(E)–(G) and NOTE refiled 7–30–98 as an emergency; operative 7–30–98 (Register 98, No. 31). A Certificate of Compliance must be transmitted to OAL by 11–27–98 or emergency language will be repealed by operation of law on the following day.
13. New part II heading and amendment of section and NOTE filed 1–8–99 as an emergency; operative 1–8–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–10–99 or emergency language will be repealed by operation of law on the following day.
14. Certificate of Compliance as to 1–8–99 order, including further amendments, transmitted to OAL 4–2–99 and filed 5–14–99 (Register 99, No. 20).
15. Amendment of section heading and section filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).

§ 15185. Information Collection, Retention, and Management.

(a) CUPAs shall collect, retain, and manage information needed to implement the Unified Program, including but not limited to these regulations and all information defined in the Unified Program data dictionary.

(b) The data dictionary is contained in division 3, Electronic Submittal of Information. It defines data elements, data field size and type, and edit criteria for regulatory data that shall be collected, retained, and managed by a CUPA. It consists of the following sections:

(1) Division 3, Electronic Submittal of Information, includes data elements reported by a regulated business to a UPA; and

(2) Division 3, Electronic Submittal of Information, includes data elements a CUPA reports to the state.

(c) A CUPA shall retain the following information for a minimum of five years:

(1) Copies of self–audits, inspection reports, enforcement files, and UPCFs.

(2) All records related to hazardous waste enforcement actions from the date the enforcement action is resolved.

(3) Detailed records used to produce the summary reports submitted to the state.

(4) Surcharge billing and collection records following closure of any billing period, or until completion of any audit process, whichever is longer.

(d) Electronic reporting is optional and the CUPA is not required to store or maintain the data in the Unified Program data dictionary format. The data dictionary data structures and formats must be used for electronic reporting by businesses to a CUPA pursuant to this section or by a CUPA to the state pursuant to this section and 15290.

(e) Within three months of the Secretary's approval of the electronic data transmission protocol developed pursuant to Public Resources Code division 34, chapter 3, section 71060 et seq., data management, a CUPA shall accept data from businesses in the approved electronic data transmission protocol, if the CUPA agrees to accept information electronically.

(f) The CUPA may permit a regulated business to meet its information reporting requirements electronically. In such case, the format and mode of the submission shall be specified by the CUPA and shall be consistent with the data standards adopted in articles 5 through 10 inclusive.

(g) If a CUPA accepts any information electronically, the CUPA shall accept all submissions that contain the data elements with the field length and type and in the order specified in the data dictionary. A CUPA may,

on a case–by–case basis, agree to accept information that does not meet the data dictionary standard.

(h) The CUPA may establish local standards for the collection of locally required supplemental information in addition to standards specified in the Unified Program data dictionary.

(i) CUPAs shall collect, retain, and manage any additional information required by state or federal law.

NOTE: Authority cited: Sections 25404(b), (c), (d) and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25201, 25201.4.1, 25201.5, 25201.13, 25201.14, 25281.2, 25218.9, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.

HISTORY

1. New section filed 1–8–99 as an emergency; operative 1–8–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–10–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–8–99 order transmitted to OAL 4–2–99 and filed 5–14–99 (Register 99, No. 20).
3. Amendment of subsections (a), (b)(2) and (e) filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).
4. Amendment of section heading and section filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).
5. Change without regulatory effect amending subsections (b)–(b)(1) filed 3–21–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15186. Unified Program Consolidated Form (UPCF).

(a) The UPCF shall be used by the UPAs to collect information from regulated businesses.

(b) The UPCF consists of the following:

(1) Business Activities Page;

(2) Business Owner/Operator Identification;

(3) Hazardous Materials Inventory–Chemical Description;

(4) UST Operating Permit Application Facility Information;

(5) UST Operating Permit Application Tank Information;

(6) UST Certification of Installation/Modification;

(7) UST Monitoring Plan;

(8) Recyclable Materials Report;

(9) Onsite Hazardous Waste Treatment Notification–Facility;

(10) Onsite Hazardous Waste Treatment Notification–Unit;

(11) Certification of Financial Assurance for Permit by Rule and Conditionally Authorized Operations;

(12) Remote Waste Consolidation Site Annual Notification;

(13) Hazardous Waste Tank Closure Certification; and

(14) Household Hazardous Waste Information (reserved).

(c) The UPCF may be reproduced or electronically duplicated as needed.

(d) Different parts of the UPCF, the alternative version, or a computer–generated facsimile may be submitted separately. Each submission shall be accompanied by the Business Owner/Operator Identification page and shall be signed. The Business Activities page shall also be resubmitted whenever any information reported on it changes.

NOTE: Authority cited: Sections 25404(b), (c), (d) and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25503.3 and 25505, Health and Safety Code.

HISTORY

1. New section filed 1–8–99 as an emergency; operative 1–8–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–10–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–8–99 order transmitted to OAL 4–2–99 and filed 5–14–99 (Register 99, No. 20).
3. Repealer and new section filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).
4. Change without regulatory effect amending subsections (b)(4)–(6), adding subsection (b)(7) and relettering subsections filed 3–21–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15187. Unified Program Consolidated Form — CUPA Responsibilities.

(a) The CUPA shall distribute copies of the UPCF, or an alternative version, to any regulated business or member of the public upon request.

(b) Each CUPA shall provide instructions to the regulated businesses when distributing the UPCF and any alternative versions.

(c) The CUPA shall accept the UPCF as shown in division 3, Electronic Submittal of Information, from any regulated business that chooses to use it, even if the CUPA adopts one or more alternative versions of the UPCF.

(d) A CUPA may add the name of the CUPA, a logo, an address, phone number, and other identifying information to the UPCF title or footer on one or more pages, without the customized UPCF being considered an alternative version subject to the conditions adopted by this section.

(e) A CUPA may create alternative versions of the UPCF for local purposes such as streamlining for small businesses or addressing a specific type of industry. Any alternative version of the UPCF shall:

(1) Collect all of the information found on the UPCF that applies to the regulated businesses using the data element definitions established by the data dictionary;

(2) Be consistent with the data standards adopted throughout articles 5 through 10 of these regulations;

(3) Use the same section order as shown in section 15186(b);

(4) Be developed in consultation with all other agencies within the CUPA's jurisdiction that are responsible for fire protection, emergency response, and environmental health;

(5) Not duplicate data elements between sections of the UPCF other than facility ID number and facility name;

(A) Duplicate information between different forms is allowed only if it is necessary to provide for form tracking.

(6) Comply with all applicable federal and state laws; and

(7) Include a written disclaimer statement on a cover page or the front page, printed using a font larger than or equal to eight points for readability: "This form was developed by the CUPA as an alternative version of the UPCF. Businesses have the option to use the UPCF adopted in state regulations. The CUPA may require businesses to provide additional information."

(f) CUPAs shall collect additional local information on either supplemental pages or within the UPCF in the boxes provided on the Business Owner/Operator Identification page and the Hazardous Materials Inventory–Chemical Description page.

(g) CUPAs that have created one or more alternative versions of the UPCF may add supplemental requests for information within the alternative version, to the extent space is available.

(h) CUPAs are prohibited from requesting duplicative information in a different format if the information is part of the data dictionary, the UPCF, or that CUPA's alternative version of the UPCF.

(i) The CUPA shall determine if business–generated facsimiles comply with the requirements of subdivision (b). The CUPA may also allow businesses to submit facsimiles of their alternative versions of the UPCF.

NOTE: Authority cited: Sections 25404(b), (c), (d) and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25503(a), 25503.5(a) and (b), 25505 and 25509, Health and Safety Code.

HISTORY

1. New section filed 1–8–99 as an emergency; operative 1–8–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–10–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–8–99 order transmitted to OAL 4–2–99 and filed 5–14–99 (Register 99, No. 20).
3. Repealer and new section filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).
4. Change without regulatory effect amending subsections (c) and (e)(3) filed 3–21–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15187.1. What are the requirements for use of electronic signatures with electronic submittals of Unified Program information? [Repealed]

NOTE: Authority cited: Section 25404(e), Health & Safety Code, Sections 71061 and 71066, Public Resources Code; and Section 16.5(c), Government Code. References: Sections 71060 et seq., Public Resources Code, Section 16.5, Government Code, ABA, Section of Science and Technology, *Digital Signature Guidelines, Legal Infrastructure for Certification Authorities and Secure Electronic Commerce*, August 1, 1996, Sections 2B–113, 2B–115, 2B–118 of the Proposed Uniform Commercial Code, Section 250 of the California Evidence Code, and Section 1001(a) of the Federal Rules of Evidence.

HISTORY

1. New section filed 1–8–99 as an emergency; operative 1–8–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–10–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–8–99 order transmitted to OAL 4–2–99 and filed 5–14–99 (Register 99, No. 20).
3. Renumbering of former section 15187.1 to new section 15189 filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).
4. Change without regulatory effect amending section heading filed 3–21–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15188. Unified Program Consolidated Form — Business Responsibilities.

(a) Regulated businesses are required to meet the reporting requirements of any applicable Unified Program element.

(b) Regulated businesses shall report required elements that are applicable to their business to the CUPA by submitting the sections of the UPCF, a business generated facsimile, or an alternative version developed by their CUPA.

(c) A copy of the Business Activities page and Business Owner/Operator page shall be submitted with every submission of pages of the UPCF.

(d) A regulated business may report information collected on the UPCF or on an alternative version electronically, if the CUPA aggress to accept it electronically. In addition:

(1) Upon agreement by the CUPA, the business may submit data in either the ASCII flat file format, ANSI X12, or an alternative file format.

(2) The business shall submit data in the mode specified by the CUPA.

(e) Regulated businesses may satisfy their reporting requirement by submitting computer–generated facsimile forms. A facsimile of the UPCF shall meet the following specifications:

(1) It shall contain all the information required on the UPCF and defined by the data dictionary for those regulated businesses. It shall use the same section format and present the required information in the order and general sequencing on the page as shown on the UPCF. The facsimile form shall be printed on 81/2– by 11–inch paper in 'portrait' format. It shall retain all labels and identifiers for the UPCF sections, pages, and subdivisions. Current page breaks shall be maintained, although a page for supplemental local information may be added between UPCF page breaks.

(2) It is not required to be an exact copy or to use identical fonts, boxing, shading, or other graphic design elements of the UPCF.

(3) The CUPA shall determine if business–generated facsimiles comply with the requirements of subdivision (e). The CUPA may also allow businesses to submit facsimiles of their alternative versions of the UPCF.

(f) To the extent not prohibited by law, the CUPA may assist businesses to revise their information by providing copies of completed reports based on previous submittals. These reports shall be in the general format of the UPCF or the alternative version. A business that revises, certifies, and returns this report to the CUPA satisfies the requirements to complete the appropriate sections of the UPCF. Regulated businesses are not required to use these CUPA generated reports and have the option to submit updated information using the UPCF or a facsimile.

(g) Regulated business shall comply with the established dates or events that trigger the requirements for businesses to submit information required as part of the Unified Program and submit the appropriate sections of the UPCF, the alternative version, or a computer–generated facsimile. A CUPA may establish other specific dates for submission of information consistent with state and federal law.

(h) Other documents may also be required by federal and state statutes and regulations or by local ordinance.

NOTE: Authority cited: Sections 25404(b), (c), (d) and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25503.5 and 25505, Health and Safety Code.

HISTORY

1. New section filed 1–8–99 as an emergency; operative 1–8–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–10–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–8–99 order transmitted to OAL 4–2–99 and filed 5–14–99 (Register 99, No. 20).
3. Repealer and new section filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).

§ 15189. Digital Signatures.

(a) If a business submits regulatory information specified in the data dictionary electronically, a digital signature may be used in lieu of a manual signature to identify the party submitting the data, subject to agreement with the party to receive the data and provided that the method used is not precluded by state or federal law.

(b) For the purposes of the UPCF and data dictionary, both the UPCF and data submitted per the requirements of the data dictionary constitute a writing.

(c) A digital signature may not be denied legal effect, validity, or enforceability solely on the ground that it is electronic.

(d) A digital signature, message, or record, is attributable to a person if:

(1) It was the action of that person, that person authorized the action, or that person's agent took the action; or

(2) The party in receipt of the digital signature, message, or record, concluded in good faith that it met any of the criteria in (d)(1) above.

NOTE: Authority cited: Section 25404(e), Health and Safety Code; Sections 71061 and 71066, Public Resources Code; and Section 16.5(c), Government Code. References: Sections 71060 et seq., Public Resources Code; Section 16.5, Government Code; ABA, Section of Science and Technology, Digital Signature Guidelines, Legal Infrastructure for Certification Authorities and Secure Electronic Commerce, August 1, 1996, Sections 2B–1 13, 2B–1 15, 2B–1 18 of the Proposed Uniform Commercial Code; Section 250, Evidence Code; and Section 1001(a) of the Federal Rules of Evidence.

HISTORY

1. Renumbering of former section 15187.1 to new section 15189, including amendment of section heading and section, filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).

§ 15190. Permitting.

(a) The UPA shall issue a Unified Program facility permit in accordance with these regulations.

(b) The CUPA shall consolidate the permits issued under the Unified Program utilizing the Unified Program facility permit.

(c) The CUPA shall provide for a single point of local contact for permit applicants. The program shall provide for a coordinated and consolidated permit process that provides regulated businesses a single point of local contact for obtaining information on, the requirements for, and the application process for the Unified Program facility permit.

(d) The UPA shall provide a Unified Program facility permit application package for the specific requirements of regulated businesses.

(1) The permit application may be presented as a single form, designed to transmit multi–program information, or it may be multiple forms arranged into a single package.

(2) The CUPA shall utilize the applicable sections of the UPCF and, if necessary, additional information to collect the required information for a permit application.

(e) The CUPA, in cooperation with the PA's, shall ensure timely decisions regarding Unified Program facility permits, including:

(1) Time lines and time limits of appeal processes;

(2) Provisions for preliminary check for application completeness;

(3) Provisions for technical review of permit applications by the responsible agency;

(4) A procedure for tracking permit applications, establishing follow–up protocol, and facilitating expeditious processing, when necessary.

(f) The CUPA shall identify and utilize efficient methods of transmitting the permit.

(g) The CUPA shall establish a permit cycle.

(h) The CUPA shall evaluate the coordination, consolidation and consistency of the Unified Program facility permit process.

(1) Information obtained through the permit evaluation process shall be considered and used in modifying the Unified Program facility permit when appropriate.

(i) The Unified Program facility permit shall include:

(1) The applicable program element(s) and authorizations that make up the Unified Program facility permit;

(2) The agency responsible for issuing the Unified Program facility permit;

(3) The permitted facility by business name and address;

(4) The permit issuance date;

(5) The permit expiration date; and

(6) An addendum used to document permit conditions for each applicable element of the Unified Program.

(j) The CUPA shall address any coordination, consolidation, or consistency issues not specifically addressed above.

(k) If required, the CUPA shall use the Consolidated Contingency Plan format pursuant to Health and Safety Code section 25503.4 and Government Code section 8670.36.5 et seq.

(l) The Consolidated Contingency Plan format developed by the CUPA shall be substantially equivalent to the format developed by OES pursuant to Health and Safety Code section 25503.4, when that format has been adopted.

(2) The CUPA shall accept plans submitted by businesses in the Consolidated Contingency Plan format adopted by OES pursuant to Health and Safety Code section 25503.4.

NOTE: Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Sections 25404.2(a)(1) and (2), 25299.6 and 25503.4, Health and Safety Code; and Section 8670.36.5, Government Code.

HISTORY

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-14-94 order including amendments to subsections (b)(1), (B)(2)(A), (b)(3), new subsections (b)(3)(A)-(C), repealer of subsection (b)(4)(A), amendment of subsection (b)(5)(A), new subsection (b)(5)(C), amendment of subsection (c)(2), and repealer of subsection (c)(7) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
6. New subsection (b)(3)(D), amendment of subsections (b)(5) and (b)(5)(A), repealer of subsection (b)(5)(B), subsection relettering, and amendment of newly designated subsection (b)(5)(B) filed 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 1-8-99 order transmitted to OAL 4-2-99 and filed 5-14-99 (Register 99, No. 20).
8. Amendment of section heading and section filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).
9. Change without regulatory effect amending subsection (e) filed 3-21-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15200. Inspection and Enforcement.

(a) The CUPA shall develop a written plan to implement an inspection and enforcement program. The plan shall be developed and implemented in cooperation with all PA's of the jurisdiction. The plan shall include:

(1) Provisions for administering all program elements.

(2) The following types of inspections shall be conducted according to the standards contained in statute and regulation:

(A) Hazardous waste generator inspections [refer to Health & Saf. Code, §§ 25150, 25159; Cal. Code Regs., tit. 22, div. 4.5, ch. 12];

(B) Inspection of onsite hazardous waste treatment activities under the CE, CA, and PBR tiers of Tiered Permitting [refer to Health & Saf. Code, §§ 25200.3, 25201.5; Cal. Code Regs., tit. 22, div. 4.5, ch. 45];

(C) UST Program inspections [refer to Health & Saf. Code, § 25288; Cal. Code Regs., tit. 23, div. 3, ch. 16, § 2712 et seq.];

(D) HMRRP Program inspections [refer to Health & Saf. Code, § 25500 et seq.];

(E) CalARP Program inspections [refer to Health & Saf. Code, § 25533 et seq.]; and

(F) Other inspections that may be consolidated pursuant to Health and Safety Code section 25404.2(a)(4).

(3) A schedule of the inspection frequencies to be conducted that shall, at a minimum, meet the inspection frequencies mandated in statutes, as shown in figure 1.

(A) If there is no mandated inspection frequency, inspection frequency scheduling shall consider the following: local zoning requirements, population density, local ground water conditions, identified hazards of a type of business, quantity and types of hazardous materials, emergency response capability, compliance history, and any other pertinent local issues.

Figure 1 – MANDATED INSPECTION FREQUENCIES

Program Element	Inspection Frequency	Statutory Reference
Hazardous Waste Generator Program	No mandated frequency	
Hazardous Waste Treatment Activities – PBR, CA and CE	At least once every three years	Health and Safety Code section 25201.4(b)
UST Program	Annually	Health and Safety Code section 25288(a)
HMRRP and Inventories Program	At least once every three years	Health and Safety Code section 25508(b)
CalARP Program	At least once every three years	Health and Safety Code section 25537

(4) Coordination of inspection efforts between the CUPA and its PA's.

(5) Enforcement notification procedures that ensure:

(A) Appropriate confidentiality; and

(B) Coordination and timely notification of appropriate prosecuting agency(ies).

(6) Identification of all available enforcement options.

(7) Uniform and coordinated application of enforcement standards.

(8) Identification of penalties and enforcement actions that are consistent and predictable for similar violations and no less stringent than state statute and regulations.

(9) A graduated series of enforcement actions that may be taken by the UPAs, based on the severity of the violation.

(10) Provisions for multi-media enforcement.

(11) A description of how the CUPA minimizes or eliminates duplication, inconsistencies, and lack of coordination within the inspection and enforcement program.

(12) Provisions for coordinating enforcement efforts between the CUPA and its PA's.

(b) The Inspection and Enforcement Program Plan shall at a minimum be reviewed annually by the CU PA.

(1) The CUPA shall consult with and reach consensus with the PA prior to any changes that affect program elements for which the PA is responsible.

(2) The CUPA shall update the plan as necessary.

(c) The CUPA shall participate in a multi-media enforcement approach to the unified inspection and enforcement program in order to promote the effective detection, abatement and deterrence of violations affecting more than one environmental medium or regulatory scheme.

(d) In addition to the mandatory elements of Health and Safety Code division 20, chapter 6.5, the CUPA may integrate optional waste reduction and pollution prevention programs into the unified inspection and enforcement program.

(e) CUPAs are responsible for initiating enforcement actions when appropriate, but may also refer enforcement cases to the appropriate state or federal agency for their consideration.

(f) These regulations shall not limit the authority of any state agency to investigate alleged violations of state law. These regulations shall not limit appropriate state agencies from taking any other actions that are mandated, allowed, or authorized pursuant to state law.

NOTE: Authority cited: Sections 25404, 25404.2 and 25404.6(c), Health and Safety Code; and Section 6254(f), Government Code. Reference: Sections 25404(c) and (d), 25404.2, 25404.2(a) and (c), 25404.4(b)(3), 25150, 25159, 25179.4, 25200.3, 25201.5, 25288, 25500 and 25533, Health and Safety Code; and Section 6254(f), Government Code.

HISTORY

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11-14-94 order including amendment of subsection (b), repealer of subsection (b)(2)(A), amendment of subsection (b)(4), Figure 4 and subsections (f), (f)(1)(C), (f)(1)(F), new subsection (f)(1)(G), amendment of subsection (f)(2)(A)(i), redesignation of subsections (f)92)(A)(iii)-(iv) to subsections (f)(2)(B)-(C) and subsection relettering, amendment of newly designated subsections (f)(2)(B)-(F), (f)(3), (f)(3)(A), redesignation of (f)(4) as (f)(3)(B) and subsection relettering, and amendment of NOTE transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
6. Amendment of section heading and section filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).
7. Change without regulatory effect amending subsections (a), (a)(2)(D), (a)(4), (a)(12) and (b)(1) filed 3-21-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15210. Single Fee System.

(a) Each CUPA shall implement a single fee system within its jurisdiction. The single fee system will do the following:

(1) Consolidates all fees currently mandated in statute and regulation used for local implementation of the Unified Program.

(2) Consolidates any other fees levied by a local agency specifically to fund their implementation of the programs specified in Health and Safety Code section 25404(c).

(b) The single fee system may be used to charge fees for programs that are not listed as Unified Program elements in Health and Safety Code section 25404.5(c), if those programs are incorporated into the Unified Program.

(c) The single fee system may reflect variations in cost to implement and maintain programs for different regulated businesses.

(1) Fee schedules shall be based on factors associated with the cost of implementing and maintaining programs.

(2) Fees may differ from one jurisdiction to the next, based on the necessary and reasonable costs to implement the Unified Program.

(3) The fee schedule may be adjusted by the CUPA to reflect changes in reasonable and necessary costs.

(d) Provided the single fee system meets the minimum requirements of the law, a CUPA or a PA has the authority to determine the level of service it will provide and to set its fees to fund the necessary and reasonable costs of its program.

(e) Each PA shall notify the CUPA of its program costs.

(f) The CUPA shall ensure that all funds collected on behalf of the PA are forwarded to the PA.

(1) The CUPA shall pay the PA within 45 days of receiving fees designated for the PA unless the PA and CUPA agree in writing to an alternate schedule.

(g) Each billing statement shall itemize the fees by program element, if those fee elements are calculated separately.

(h) Fees for non-recurring activities of the CUPA or PA such as, but not limited to, the fee for an initial permit or special inspection, may be billed separately from the single fee billing.

(i) The governing body of the CUPA shall establish the fee schedule for businesses regulated under the Unified Program. The governing body of the CUPA shall utilize the fee schedules established by the PA's and authorize the collection of those fees.

(j) The CUPA or PA shall make fees schedules available to interested parties upon request.

(k) The CUPA shall prepare and implement a plan to resolve fee disputes that arise between the CUPA and PA's, between a regulated business and either the PA or the CUPA, or between a regulated business and the state regarding the state surcharge.

(1) The CUPA shall attempt to resolve disputes involving the surcharge in the same manner used to resolve local fee disputes. Those disputes regarding the state surcharge that cannot be resolved locally may be referred to the Secretary for resolution.

(A) Disputes referred to the Secretary shall be in writing and shall include a recommendation for resolution.

(/) The single fee system shall include mechanisms for the billing, collection, and transmittal of the state surcharge.

(1) The CUPA may show the state surcharge as a separate item or items within the single fee billing.

NOTE: Authority cited: Sections 25404, 25404(b), 25404.5, 25404.5(b) and (c) and 25404.6(c), Health and Safety Code. Reference: Sections 25404.1(a)(1), 25404.4 and 25404.5, Health and Safety Code.

HISTORY

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11-14-94 order including amendment of subsections (a), (a)(1), (a)(2)(B), (a)(3), (a)(4), (a)(5), new subsection (a)(7) and renumbering of former subsection (a)(7) to (a)(8), repealer of former subsections (a)(8)-(a)(8)(B) and (a)(10), amendment of subsections (b) and (b)(1)(F), repealer of subsection (c)(1)-(c)(3)(D), new subsections (c)(1)-(2), redesignation of subsections (c)(4)-(c)(4)(c) to (d)-(d)(3), and amendment of newly designated subsections (d)(1)-(d)(2) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
6. Amendment of section heading and section, including renumbering of former subsections (b)-(b)(2) to section 15220 filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).
7. Change without regulatory effect amending subsections (d)-(f)(1) and (h)-(k) filed 3-21-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15220. Fee Accountability Program.

(a) Each CUPA shall implement a fee accountability program designed to encourage efficient and cost-effective operation of the program for which the single fee and surcharge are assessed.

(1) The fee accountability program shall be instituted before the single fee system. The fee accountability program shall include at a minimum the following elements:

(A) Accounting for: the fee schedule, the actual amount billed, and the revenue collected.

(B) Discrete billable services, categorized as either site specific or general.

(C) Staff work hours required to implement the program.

(D) Direct program expenses including durable and disposable equipment.

(E) Indirect program expenses including overhead for facilities and administrative functions.

(F) The number of regulated businesses in each program element within the jurisdiction.

(G) Total number of regulated businesses in the jurisdiction.

(H) Quantity and range of services provided, including frequency of inspection.

(2) The CUPA and PA's shall annually review and update the fee accountability program.

NOTE: Authority cited: Sections 25404, 25404(b), 25404.5, 25404.5(b) and (c) and 25404.6(c), Health and Safety Code. Reference: Sections 25404.1(a)(1), 25404.4 and 25404.5, Health and Safety Code.

HISTORY

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11-14-94 order including amendment of subsections (a)(4), (b), and (b)(2) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
6. Repealer of former section 15520 and renumbering and amendment of former subsections 15210(b)-(b)(2) to new section 15220 filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).
7. Change without regulatory effect amending subsection (a)(2) filed 3-21-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15230. What are a participating agency's responsibilities within the Single Fee System? [Repealed]

NOTE: Authority cited: Sections 25404(b), 25404(a)(2) and (a)(3), Health and Safety Code. Reference: Section 25404.5(a)(2) and (3), Health and Safety Code.

HISTORY

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11-14-94 order transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
6. Repealer filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).
7. Change without regulatory effect amending section heading filed 3-21-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15240. State's Surcharge Responsibilities.

(a) The Secretary shall determine the annual surcharge based on the assumptions, calculations, and supporting data that justify the reasonable and necessary costs of CUPA oversight and program element management by state agencies with responsibilities under the Unified Program.

(1) The Secretary shall determine the amount of each surcharge component based upon information received from each state agency responsible for activities under Health and Safety Code division 20, chapter 6.11.

(2) Each state agency responsible for activities under Health and Safety Code division 20, chapter 6.11 shall submit to the Secretary, on a date specified by the Secretary, its projected reasonable and necessary costs, including the detailed supporting information to carry out responsibilities under Health and Safety Code division 20, chapter 6.11.

(3) Reasonable and necessary costs shall include but are not limited to, the costs of bad debts, and uncollected fees.

(b) The Secretary shall review annually, and revise if necessary, the state surcharge to be assessed on regulated businesses. The state surcharge shall not be revised more than once per year.

(c) The Secretary shall determine the amount of state surcharge to be assessed on each person regulated by the Unified Program in order to cover the necessary and reasonable costs of the state agencies in carrying out their responsibilities under Health and Safety Code division 20, chapter 6.11, pursuant to Health and Safety Code section 25404.5(b)(1). The state surcharge consists of the following components:

(1) A component for oversight of each CUPA assessed on all regulated businesses.

(2) A component assessed on regulated businesses for each UST, that meets the criteria of Health and Safety Code section 25281(y)(1).

(3) A component assessed on regulated businesses under the Health and Safety Code section 25531 et seq., the CalARP program.

(A) This CalARP surcharge component is assessed on a single company or business within a CUPA's jurisdiction, regardless of the business's number of stationary sources.

(B) A regulated business is not required to pay the CalARP surcharge component at a stationary source if a CUPA makes a determination that there is not a significant likelihood of a regulated substances accident risk and does not require the preparation and submission of a risk management plan at that stationary source operated by that business in the CUPA's jurisdiction, pursuant to Health and Safety Code section 25534.

(C) This CalARP surcharge component waiver is effective starting in the following fiscal year after the determination is made by the CUPA. If subsequent changes lead to a redetermination and a requirement by the CUPA to prepare and submit any risk management plan at any of the business's stationary source(s), then this surcharge component will be assessed beginning in the following fiscal year.

(d) The Secretary shall publish the amendments to the state surcharge in the California Regulatory Notice Register and accept comments on the proposed surcharge for 30 days.

(e) Following the 30-day comment period required in subdivision (d) for this section, the Secretary will publish the final surcharge in the California Regulatory Notice Register.

(f) Sixty days following the publishing of the final surcharge in the California Regulatory Notice Register, the CUPAs shall be responsible for collecting the new surcharge as part of their single fee system.

NOTE: Authority cited: Sections 25404(b) and (d), 25404.6(c) and 25531.2, Health and Safety Code. Reference: Sections 25404.5(b) and (d) and 25534, Health and Safety Code.

HISTORY

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-14-94 order including repealer of subsections (a)-(e) and new subsections (a)-(e) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).

6. Amendment of subsections (c)(1) and (c)(1)(A), new subsections (c)(4) and (c)(4)(A), and amendment of NOTE filed 9–11–97 as an emergency; operative 9–11–97 (Register 97, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–9–98 or emergency language will be repealed by operation of law on the following day.
7. Editorial correction of HISTORY 6 (Register 98, No. 3).
8. Amendment of subsections (c)(1) and (c)(1)(A), new subsections (c)(4) and (c)(4)(A), and amendment of NOTE refiled 1–16–98; including additional amendment of subsections (c)(4) and (c)(4)(A); operative 1–16–98 (Register 98, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–20–98 or emergency language will be repealed by operation of law on the following day.
9. Amendment of subsections (c)(1) and (c)(1)(A), new subsections (c)(4) and (c)(4)(A), and amendment of NOTE refiled 5–18–98; operative 5–18–98 (Register 98, No. 21). A Certificate of Compliance must be transmitted to OAL by 9–15–98 or emergency language will be repealed by operated of law on the following day.
10. Reinstatement of section as it existed prior to 9–11–97 emergency amendment by operation of Government Code section 11346.1(f) (Register 98, No. 38).
11. Amendment of subsections (c)(1)–(c)(1)(A), repealer of subsections (c)(3)–(c)(3)(B), new subsections (c)(3)–(c)(3)(A) and amendment of NOTE filed 9–16–98 as an emergency; operative 9–16–98 (Register 98, No. 38). A Certificate of Compliance must be transmitted to OAL by 1–14–99 or emergency language will be repealed by operation of law on the following day.
12. Amendment of section and NOTE filed 1–8–99 as an emergency; operative 1–8–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–10–99 or emergency language will be repealed by operation of law on the following day.
13. Certificate of Compliance as to 1–8–99 order transmitted to OAL 4–2–99 and filed 5–14–99 (Register 99, No. 20).
14. Amendment of subsections (c)(1) and (c)(1)(A) filed 8–31–99 as an emergency; operative 8–31–99 (Register 99, No. 36). A Certificate of Compliance must be transmitted to OAL by 12–29–99 or emergency language will be repealed by operation of law on the following day.
15. Amendment of subsections (c)(1) and (c)(1)(A) refiled 12–24–99 as an emergency; operative 12–24–99 (Register 99, No. 52). A Certificate of Compliance must be transmitted to OAL by 4–24–2000 or emergency language will be repealed by operation of law on the following day.
16. Reinstatement of section as it existed prior to 8–31–99 emergency amendment by operation of Government Code section 11346.1(f) (Register 2000, No. 25).
17. Amendment of section and NOTE filed 11–1–2000 as an emergency; operative 11–1–2000 (Register 2000, No. 44). A Certificate of Compliance must be transmitted to OAL by 3–1–2001 or emergency language will be repealed by operation of law on the following day.
18. Reinstatement of section as it existed prior to 11–1–2000 emergency amendment by operation of Government Code section 11346.1(f) (Register 2001, No. 10).
19. Amendment of section and NOTE filed 3–8–2001 as an emergency; operative 3–8–2001 (Register 2001, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–2001 or emergency language will be repealed by operation of law on the following day.
20. Amendment of section and NOTE refiled 6–25–2001 as an emergency; operative 6–25–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–23–2001 or emergency language will be repealed by operation of law on the following day.
21. Amendment of section and NOTE refiled 10–22–2001 as an emergency; operative 10–24–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–21–2002 or emergency language will be repealed by operation of law on the following day.
22. Certificate of Compliance as to 10–22–2001 order, including amendment of section, transmitted to OAL 2–4–2002 and filed 3–5–2002 (Register 2002, No. 10).
23. Amendment of section heading and section filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).
24. Change without regulatory effect amending subsection (b) filed 3–21–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15241. Establishing the Single Fee for Designated State Agencies.

(a) The Secretary shall determine the Unified Program single fee for any state agency designated to act as the CUPA pursuant to sections 25404.3 and 25404.5, subdivision (a)(2)(B) of the Health and Safety Code, based on data that sets forth the necessary and reasonable costs of CUPA implementation by that state agency, according to the methodology described in subdivision (c).

(b) Each state agency designated to administer the Unified Program shall provide the Secretary with the information necessary to determine the amount of the single fee. Each designated agency shall annually submit to the Secretary, on a date specified by the Secretary, the amount of necessary and reasonable costs to carry out its responsibilities as the designated agency, including the supporting information requested by the Secretary. Necessary and reasonable costs shall include, but not be limited to, the costs of bad debts and uncollected fees.

(c) The Secretary or the designated agency shall assess an annual fee on regulated businesses that is sufficient to recover the designated agency's net costs. The annual fee shall consist of a program element fee, levied on each program element to which a regulated business is subject within the CUPA's jurisdiction during the reporting period or any portion thereof, and a flat fee, levied equally on each regulated business within the CUPA's jurisdiction during the reporting period or any portion thereof. The initial reporting period is July 1, 2005, through June 30, 2006.

(1) The program element fee shall be calculated for each business by multiplying a base rate by an hourly fee for each program element to which a business is subject. If a business is subject to multiple program elements, all program element fees to which it is subject shall be added to determine its total program element fee.

(A) Program element fee categories include AST, UST, CalARP, HMRRP, hazardous waste generator, hazardous waste recycler, and tiered permit. In determining the base rate, the Secretary may divide tanks and generators into categories of large, medium, and small, and divide tiered permits into categories of PBR, CA and CE. Businesses with multiple tiered permit operations at the same site will be subject to the tiered permit program element fee for only one such operation per site, which shall be for the operation that is subject to the highest fee.

(B) Businesses that have filed documents required for permanent tank closure with the designated agency or its predecessor, and have discontinued storage of hazardous substances within the tank, shall not be subject to the program element fee beginning with the reporting period after such documents have been filed, but shall be subject to cost recovery pursuant to subdivision (j).

(2) The flat fee shall be calculated for each business by dividing the designated agency's net costs, minus all estimated program element fee receipts, by the total number of regulated businesses within the CUPA's jurisdiction.

(d) In addition to the annual fee, the Secretary or the designated agency shall assess the annual state surcharge pursuant to section 25404.5, subdivision (b) (1) of the Health and Safety Code.

(e) A transfer of ownership or operation of assets at a site shall not cause an additional fee to be assessed if the fee for the same reporting period has been paid by the previous owner or operator. Businesses with multiple program elements will be assigned the specified base rate for each element that is present at an individual site, except that businesses with more than one tank will be assigned the specified number of units based on the combined capacity of all active tanks per site, regardless of the number of such tanks.

(f) The fee shall be due on the date or dates specified by the Secretary or the designated agency, which shall not be less than 30 days from the date of the bill. The fee may be assessed in a single billing or in more than one billing. A penalty of 10 percent shall be assessed on any payment that is not received as postmarked by the due date. Beginning on the first day of the calendar month following the due date, simple interest shall accrue monthly on any unpaid fee or portion thereof at the rate established by the State Board of Equalization pursuant to section 43155 of the Revenue and Taxation Code, and shall continue until the fee is paid. The penalty or interest may be waived if the Secretary or the designated agency determines that the failure to make a timely payment was due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect. Mere disagreement with the fee assessment shall not be deemed reasonable cause. A person seeking to be relieved of penalty or interest shall submit a written statement to the Secretary or the designated agency, signed under penalty of perjury, setting forth the facts upon which he or she bases the claim for relief.

(g) If the Secretary or the designated agency provides a refund because of an erroneous billing, the refund shall be subject to simple interest at the rate provided in section 43455 of the Revenue and Taxation Code, unless the erroneous billing was due to incorrect information provided by the person who receives the refund. No refund shall be granted unless the person who seeks the refund submits written notification of the error to the Secretary or the designated agency within one year of the date the person is notified of the fee or cost assessment.

(h) Failure to pay the required fee or cost reimbursement may result in a suspension by the Secretary or the designated agency of the regulated business's right to conduct the activity that is subject to the fee. The regulated business will receive at least 30 days notice of the suspension. Failure to pay the fee, or conducting the activity during the suspension, shall be deemed a violation of the regulatory law administered by the Secretary or the designated agency. Any suspension will be stayed during the appeal of the fee under subdivision (k).

(i) The Secretary shall review annually, and revise if necessary according to the procedures set forth in this section, the fees assessed pursuant to this section. The Secretary shall not revise the fees more than once per fiscal year. The Secretary shall publish any proposed revisions to the fees in the California Regulatory Notice Register and accept comments on the proposed fees for 30 days thereafter. Following the 30-day comment period, the Secretary will consider comments and prepare a response that identifies the comments, the Secretary's findings, and the Secretary's final fee decisions. The Secretary will make responses available upon request and will publish the final fee in the California Regulatory Notice Register.

(j) The Secretary or the designated agency may recover the cost of non-recurring activities directly from the person who receives the non-recurring activities, based on the total cost to the Secretary or designated agency of providing that non-recurring activity.

(k) A person may dispute the assessment of the fee or cost recovery by submitting a petition to the director of the designated agency. The person must submit the petition, in writing, within one year of the date the person is notified of the fee or cost assessment. The petition must state the specific grounds upon which it is founded. If the matter cannot be resolved informally, the director shall designate a hearing officer to decide the petition. The hearing officer shall be in neither a subordinate nor a supervisory or managerial position to any staff involved in making the initial determination. A hearing shall be conducted in person, by telephone, or by video conference at which all relevant evidence will be admissible. The hearing officer shall make the final decision to approve or deny the petition.

NOTE: Authority cited: Sections 25404 and 25404.6, Health and Safety Code. Reference: Sections 25404.3, 25404.5 and 25404.6, Health and Safety Code.

HISTORY

1. New section filed 9-26-2005 as a deemed emergency pursuant to Health and Safety Code section 25404.6(c); operative 9-26-2005 (Register 2005, No. 39). A Certificate of Compliance must be transmitted to OAL by 1-24-2006 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 1-13-2006 as a deemed emergency pursuant to Health and Safety Code section 25404.6(c), including repealer and new subsection (c)(1)(B) and amendments to subsections (e), (f) and (h); operative 1-24-2006 (Register 2006, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-24-2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1-13-2006 order, including amendment of section, transmitted to OAL 5-1-2006 and filed 6-13-2006 (Register 2006, No. 24).
4. Amendment of subsection (c)(1)(A) filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).
5. Change without regulatory effect amending subsection (c)(1)(A) filed 3-21-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15242. Definitions.

The following definitions apply to section 15241:

(a) "Base rate" is an estimate of the designated agency's workload standard (amount of time) to complete a program element task for each jurisdiction for which it acts as the CUPA.

(b) "Business" or "regulated business" shall have the meaning of "regulated business" defined in section 15110 of this title.

(c) "Generator" shall have the meaning of "generator" in section 66260.10 of title 22 of the California Code of Regulations. Notwithstanding this definition, a person shall not be subject to the program element fee or the flat fee solely for reason of any of the following: generation of waste that is not transported off site; removing soil for purposes of site mitigation; removing an unexpected or extraordinary spill of hazardous materials; or removing abandoned hazardous waste that was not produced in the course of conducting his or her business. Also, no program element fee or flat fee shall be assessed for any activity that is exempt from any fee pursuant to section 25174.7 or 25205.3 of the Health and Safety Code.

(1) "Large generator" means a person who generates 500 or more tons of hazardous waste per calendar year.

(2) "Medium generator" means a person who generates at least one ton but less than 500 tons of hazardous waste per calendar year.

(3) "Small generator" means a person who generates hazardous waste in an amount less than one ton per calendar year.

(d) "Hourly fee" is the designated agency's hourly labor charge. It will be calculated by dividing 80 percent of the designated agency's net annual costs by the total estimated annual workload hours to administer the program.

(e) "Net costs" means projected costs to administer the Unified Program during the fiscal year, minus any money collected from grants, reimbursements, penalties, cost recoveries, and allocations from the Rural CUPA Reimbursement Account. Any surplus or deficit from the preceding fiscal year will be subtracted from or added to the designated agency's cost projections for the following fiscal year.

(f) "Non-recurring activities" shall include, but not be limited to, oversight of facility closure or of remedial activities, including closure or remedial activities required by an order issued by the designated agency or another government agency. "Non-recurring activities" do not include any of the following: a regulatory compliance inspection, the issuance or approval of a permit or other form of authorization, the issuance of an order for corrective action or penalties, a plan review, or any activity that is essential to carry out one or more of the foregoing regulatory activities.

(g) "Site" means real property that is owned or operated by the same person that is either contiguous or satisfies the meaning of "on site" in section 66260.10 of title 22 of the California Code of Regulations.

(h) "Tank" means a storage tank or group of storage tanks.

(1) "Large storage tank" means a storage tank or group of storage tanks with a total capacity per site of 34,000 gallons or more.

(2) "Medium storage tank" means a storage tank or group of storage tanks with a total capacity per site of at least 19,000 gallons but less than 34,000 gallons.

(3) "Small storage tank" means a storage tank or group of storage tanks with a total capacity per site of less than 19,000 gallons.

(i) Except as otherwise stated in this section, words have the meanings provided by the following authorities, in order of precedence: (1) section 25404 of the Health and Safety Code; (2) section 15110 of this title, (3) article 2 (commencing with section 25110) of chapter 6.5 of division 20 of the Health and Safety Code; and (4) section 66260.10 of title 22 of the California Code of Regulations.

NOTE: Authority cited: Sections 25404 and 25404.6, Health and Safety Code. Reference: Sections 25404.3, 25404.5 and 25404.6, Health and Safety Code.

HISTORY

1. New section filed 9-26-2005 as a deemed emergency pursuant to Health and Safety Code section 25404.6(c); operative 9-26-2005 (Register 2005, No. 39). A Certificate of Compliance must be transmitted to OAL by 1-24-2006 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 1-13-2006 as a deemed emergency pursuant to Health and Safety Code section 25404.6(c), including repealer of subsection (d) and subsection relettering; operative 1-24-2006 (Register 2006, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-24-2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1-13-2006 order, including amendment of section, transmitted to OAL 5-1-2006 and filed 6-13-2006 (Register 2006, No. 24).

§ 15250. CUPA Surcharge Responsibilities.

(a) The CUPA shall collect the surcharge for all program elements within its Unified Program as part of their single fee system

(1) Willful or negligent failure to collect the surcharge may be a basis for withdrawing the CUPA's certification.

(2) The CUPA shall begin assessing the surcharge within its first billing cycle or within 12 months after the effective date of certification, whichever is shorter. The full surcharge will be assessed and collected within 12 months of the effective date of certification and every 12 months thereafter.

(3) The CUPA may waive the state surcharge for specific regulated businesses provided that the criteria for waiving the state surcharge meets the same standards as those established by the CUPA for waiving the single fee.

(A) The state surcharge may not be waived for any regulated business so long as the regulated business is assessed a fee under the single fee system.

(i) The Secretary may revoke the CUPA's authority to waive state surcharge fees if it is determined that the CUPA consistently does not make a reasonable, good faith effort to protect the state's interests or is not following the established criteria for waiving the state surcharge.

(B) Notwithstanding the provisions of sections 15241 and 15242, if a CUPA prorates their fees for regulated business in operation for part of a year, the applicable surcharge components may be prorated at the same rate.

(b) Remittance to the Secretary.

(1) The CUPA shall transmit all collected state surcharge revenues to the Secretary quarterly, within 30 days of the end of each state fiscal quarter.

(A) With each surcharge transmittal the CUPA shall separately report the amount of surcharge revenues collected for: CUPA oversight, regulated UST's, and the CalARP Program.

(B) Failure to transmit the surcharge after collection may be a basis for withdrawing the CUPA's certification.

(C) Remit the collected state surcharge revenues with a completed copy of report 1 to:

AIR RESOURCES BOARD
ATTN: ACCOUNTING
P.O. BOX 1436
SACRAMENTO, CALIFORNIA 95812

NOTE: Authority cited: Sections 25404, 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404.5(a)(1), (2) and (4) and 25404.5(b), Health and Safety Code.

HISTORY

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-14-94 order including amendment of subsection (a)(1), repealer of subsection (a)(1)(A), amendment of subsections (a)(3)-(4), (a)(6), new subsections (a)(7)-(8), amendment of subsections (b)(1), (c)(1)-(2) and (d)(1)(B) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
6. Change without regulatory effect adding subsection (b)(1)(C) filed 5-28-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 22).
7. Amendment of subsections (a)(7), (b)(1), (b)(1)(A), (b)(1)(C), (c)(1), (c)(2) and (d)(1)(A) and new subsection (c)(3) filed 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 1-8-99 order transmitted to OAL 4-2-99 and filed 5-14-99 (Register 99, No. 20).
9. Change without regulatory effect amending subsection (b)(1)(C) filed 7-11-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 28).
10. Amendment of section heading and section filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).
11. Change without regulatory effect amending subsections (b)(1)(A) and (b)(1)(C) filed 3-21-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15260. CUPA — Education, Technical Expertise, and Training.

(a)(1) CUPAs shall meet the following minimum qualifications:

(A) CUPA technical program staff and supervisors who are involved in specific activities associated with oversight of the local Unified Program requirements must meet the following minimum educational requirements:

(i) Thirty semester units earned from an accredited college or institution approved by the California Superintendent of Public Instruction under the provisions of California Education Code section 94310(b), from one or more of the following disciplines:

(aa) Biology or microbiology
(bb) Chemistry, chemical engineering
(cc) Physics, physical science
(dd) Environmental science
(ee) Geology or soil science
(ff) Environmental health
(gg) Environmental or sanitary engineering
(hh) Toxicology
(ii) Industrial hygiene
(jj) Hazardous materials management
(kk) Fire science, fire technology;

– OR –

(ii) Equivalent to graduation from an accredited college or university or equivalent degree approved by the California Superintendent of Public Instruction under the provisions of California Education Code section 94301(b) with major course work in the disciplines listed in paragraph (a)(1)(A)(i);

– OR –

(iii) Qualifying experience in hazardous materials management, regulation, analysis, or research; environmental research, monitoring, surveillance or enforcement; or resource recovery may be substituted for the required education, on the basis of one year of qualifying experience for 15 units of college course work authorized pursuant to paragraph (a)(1)(A)(i), for up to a maximum of 15 units.

(B) CUPA technical program staff and supervisors who are involved in specific activities associated with oversight of the local Unified Program requirements shall meet minimum hours of training or experience requirements contained in subdivision (d)(3)(B) of this section, for all the following subject areas:

(i) Regulatory overview;

(ii) Classification, identification, and chemistry of hazardous materials and hazardous waste;

(iii) Health and environmental effects of hazardous substances, including chemical exposure and route of entry;

(iv) Sampling methodologies and use of instrumentation for detection and sampling of hazardous substances;

(v) Conducting inspections and enforcement actions, and writing inspection reports and notice of violation;

(vi) Interviewing, case development, and collection and preservation of evidence.

(b) One or more CUPA technical staff or supervisors, as needed to effectively meet the requirements of paragraphs (a)(1)(A) and (1)(B), shall meets the requirements of subdivision (d) of this section.

(c) Technical staff and supervisors of the CUPA and PA's shall receive training in the following areas:

(1) Hazardous materials and hazardous waste permitting, inspection and enforcement duties and responsibilities pursuant to state law and regulation, and to local ordinances and resolutions;

(2) Inspection techniques and scheduling, including evidence collection, chain of custody, sample preservation, and interviewing;

(3) Administration practices within a hazardous materials and hazardous waste program;

(4) Monitoring equipment, data evaluation, and interpretation of the results as related to hazardous materials and hazardous waste analysis; and

(5) Field staff health and safety training including: planning field inspections, safety equipment, on-site procedures, decontamination and hazard recognition and avoidance.

(d)(1) Education Requirements:

(A) Equivalent to graduation from an accredited college or university or equivalent degree approved by the California Superintendent of Public Instruction under the provisions of California Education Code section 94310(b) with major coursework in biological, chemical, physical, environmental or soil science; environmental health; environmental or sanitary engineering; toxicology; industrial hygiene; or a related field. Additional qualifying experience in hazardous materials management, regulation, analysis, or research; environmental research, monitoring, surveillance or enforcement; or resource recovery may be substituted for the required education on the basis of one year of qualifying experience for each year of college work for up to a maximum of two years. When substituting experience for education, qualifying education must include a minimum of 30 semester units in natural science from an accredited college or equivalent units from an institution approved as above; or

(B) Registration as an Environmental Health Specialist may be substituted for the required education.

(2) Participating staff shall have a minimum of one year experience in conducting hazardous materials or hazardous waste regulatory compliance inspections.

(3) Staff issuing enforcement orders shall complete the following minimum training:

(A) Health and safety training as specified in section 5192(e) title 8, California Code of Regulations;

(B) 100 hours of training in regulatory investigative techniques including training in the following subjects:

(i) Federal and state statutes and regulations on hazardous waste control;

(ii) Conducting an inspection;

(iii) Waste classification;

(iv) Inspection report writing;

(v) Collection and preservation of samples;

(vi) Enforcement response options;

(vii) Writing reports of violation;

(viii) Interviewing;

(ix) Case development;

(x) Collection and preservation of evidence;

(xi) Witness training; and

(xii) Rules of evidence and the administrative hearing process.

(C) Twenty-four hours of training in the following additional areas:

(i) Training on penalty assessment; and

(ii) Negotiation techniques.

(D) It shall be the responsibility of the CUPA to document the training and experience of staff participating in this program.

NOTE: Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404(c) and (d), 25404.1(a)(1) and 25404.3(b)(1), (4), (5) and (7), Health and Safety Code.

HISTORY

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11-14-94 order including amendment of subsections (a)(2), (a)(3)(A) and (b) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
6. Change without regulatory effect amending section filed 12-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 51).
7. Amendment of section heading and section filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).
8. Change without regulatory effect amending subsections (c) and (c)(4) filed 3-21-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15270. PA — Education, Technical Expertise and Training.

(a) A PA implementing one or more of the program elements on or before December 31, 1995, shall be considered qualified to implement those specific program element(s).

(b) PA technical staff and supervisors shall meet the ongoing training requirements identified in section 15260(c).

NOTE: Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404(c) and (d), 25404.1(a)(1), 25404.1(b)(2) and (4) and 25404.3(b)(1), (4), (5) and (7), Health and Safety Code.

HISTORY

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11-14-94 order including amendments of subsections (a) and (b) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
6. Amendment of section heading and section filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).

Article 6. CUPA Self-Auditing and Reporting

§ 15280. Self-Auditing.

(a) The CUPA shall conduct an annual self-audit at the end of each state fiscal year and shall be maintained on file by the CUPA for a period of five years. Annual self-audit reports shall be completed by September 30 of each year. The time period covered by each self-audit is the state fiscal year from July 1 through June 30 of each year.

(1) The first self-audit report shall be produced by September 30 following a full year of operation as a CUPA.

(2) Upon written request of the Secretary or a state agency responsible for overseeing one or more program elements, the CUPA shall forward the self-audit to the person or agency making the request upon 60 days notice.

(3) For an agency authorized to continue its role, responsibilities, and authority for a program element or elements pursuant to Health and Safety Code sections 25404.3(f) or 25533(f), the self-audit shall only include information on the program element or elements that particular agency is authorized to continue to operate and shall not include information related to the surcharge or single fee system.

(b) The self-audit shall assess the performance of the CUPAs and any PA's implementation of standards in statutes and regulations established by the Secretary or the state agencies responsible for one or more of the program elements.

(c) The self-audit report shall include:

(1) A report of deficiencies with a plan of correction.

(2) A narrative summary of the effectiveness of activities including, but not limited to:

(A) Permitting;

(B) Inspections;

(C) Enforcement; and

(D) The single fee system.

(3) An explanation of any discrepancies on the annual and quarterly reports of program activities submitted to the Secretary pursuant to section 15290 and the Unified Program requirements for those activities.

(4) The annual review and update of the fee accountability program as required by section 15220.

(5) A record of changes in local ordinances, resolutions, and agreements affecting the Unified Program.

(6) A summary of new programs being included in the Unified Program if applicable.

NOTE: Authority cited: Sections 25404, 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404(b), (c) and (d), 25404.4(a)(1) and 25404.5(b), Health and Safety Code; and Title 23, Section 2713, California Code of Regulations.

HISTORY

1. New article 6 and section filed 11–14–94 as an emergency; operative 11–14–94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–20–95 or emergency language will be repealed by operation of law on the following day.
2. New article 6 and section refiled 3–7–95 as an emergency; operative 3–7–95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–5–95 or emergency language will be repealed by operation of law on the following day.
3. New article 6 and section refiled 7–7–95; operative 7–7–95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–4–95 or emergency language will be repealed by operation of law on the following day.
4. New article 6 and section refiled 11–3–95 as an emergency; operative 11–3–95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3–2–96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–14–94 order including amendment of subsections (a), (a)(1)(A)–(B), (a)(2), (b), and (b)(1)(B), repealer of subsection (b)(1)(C)(ii) and subsection renumbering, amendment of subsection (b)(2), new subsection (b)(3), amendment of subsection (c)(1) and (c)(1)(A), repealer of subsection (c)(1)(B), new subsections (c)(1)(B)–(c)(1)(B)(iii), and amendment of subsection (c)(2) and NOTE transmitted to OAL 12–15–95 and filed 1–31–96 (Register 96, No. 5).
6. Change without regulatory effect adding subsection (b)(4) filed 5–28–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 22).
7. Amendment of article heading, section heading, section and NOTE filed 1–8–99 as an emergency; operative 1–8–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–10–99 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 1–8–99 order transmitted to OAL 4–2–99 and filed 5–14–99 (Register 99, No. 20).
9. Amendment of section heading and section filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).
10. Change without regulatory effect renumbering subsections (a)(3)–(4) to subsections (a)(2)–(3) filed 3–21–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15290. Reporting.

(a) The CUPA shall submit the following reports for the previous fiscal year to the Secretary by September 30 of each year. The first reports shall be submitted by September 30 following a full state fiscal year of operation as a CUPA.

(1) The Annual Single Fee Summary Report using report 2. It includes:

(A) The amount of the single fee billed and the amount collected.

(B) The amount of any funds due to PA's and the amount actually transmitted.

(C) The amount of surcharge billed, the amount of surcharge waived, and the amount of surcharge collected for each category identified in section 15240(c).

(D) If the CUPA believes that the number of regulated businesses will change significantly in the current year or in the next year, then estimates of those changes for each program element will be provided in a cover letter with report 2.

(E) A count for the year of the report of the total regulated businesses, UST facilities, USTs, onsite hazardous waste treatment facilities (PBR, CA, and CE), CalARP program stationary sources, waivers granted to stationary sources, and businesses subject to the CalARP program surcharge.

(2) Annual Inspection Summary Report, using report 3, provides summary information for each program element. The hazardous waste element is separated into parts for generators, LQGs, recyclers, and onsite treatment as shown on report 3. The summary information includes the number of regulated businesses, total number of inspections, routine inspections, other inspections, and the inspected businesses that returned to compliance within established standards after routine inspections. Established standards vary by program element and are found in either state law or regulations, or the CUPA may adopt more stringent standards by local ordinance or in its application for certification. The report also collects total counts (not by program element) for these types of inspections: combined routine, joint, and integrated/multi–media; and a count of RMP audits for the CalARP program.

(3) Annual Enforcement Summary Report, using report 4, provides summary information for each program element. The hazardous waste element is separated into parts for generators, LQGs, recyclers, and onsite treatment, as shown on report 4. The summary information includes the number of facilities with violations by type of violation; the number of informal enforcement actions; the total number of administrative actions, civil and criminal referrals and enforcement actions, and the total amount of fines and penalties initially assessed and collected. For the Class I and II violations within the hazardous waste program, it also provides a count of the total number of formal enforcement actions that were initiated within 135 days from the first day of a routine inspection or after making a determination of the violations for a complaint investigation. (This last count excludes minor violations.)

(4) Reports 2 through 4 shall be submitted by the CUPA to the:

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
UNIFIED PROGRAM SECTION

U.S. MAIL: P.O. BOX 2815
SACRAMENTO, CALIFORNIA 95812–2815

EXPRESS MAIL: 1001 "I" STREET
SACRAMENTO, CALIFORNIA 95814

(b) On a semi–annual basis, each CUPA shall send information pertaining to local UST program implementation to SWRCB using Semi–Annual UST Program Report, report 6. This report shall satisfy the requirements of Health and Safety Code section 25299.7(b) and California Code of Regulations, title 23, section 2713.

(1) Semi–Annual UST Program Report provides information on semi–annual changes to the count of regulated tank facilities; the number of active and permanently closed petroleum and non–petroleum tank systems; the number of completed UST facility inspections; a count of active UST facilities in compliance with release detection and release prevention requirements; and information regarding red tags issued pursuant to the California Code of Regulations, title 23, article 10.5. The CUPA will also review and verify the information shown from the previous reporting period and make any appropriate changes.

(2) The semi–annual reports shall be submitted by March 1 and September 1 to the:

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER QUALITY, UST PROGRAM
P.O. BOX 2231
SACRAMENTO, CA 95812–2231

(c) The periodic reports required by this section shall be submitted in a paper form, unless the CUPA requests to submit the reports electronically and obtains the Secretary's prior approval of the file format.

(d) If the CUPA chooses to submit reports 3, 4, and 6, required by section 15290, to the state in an electronic format, the CUPA shall:

(1) Meet the standards specified in sections 15185 and 15187,

(2) Submit the data using the same layout and present the required information in the same order and general sequencing for each page as shown on each report, or use a facsimile version thereof.

(3) Collect and report all of the information found on the report that applies to the CUPA.

(e) Upon the written request of the Secretary or an authorized agent, or a state agency responsible for one or more program elements, the CUPA shall provide information listed in or derived from any part of the Unified Program data dictionary [refer to div. 3, subd. 1, chs. 1–5] to the person or agency making the request within 60 days. The scope of these requests by the Secretary for information on facilities and/or CUPA activities is limited to data included in the data dictionary. These additional data reports shall be submitted in a paper form, unless the person or agency making the request approves a CUPA's request to submit the reports electronically. CUPAs may request an extension upon showing good cause.

(f) Nothing in this section shall limit the authority of the Secretary to request records or documents that are normally maintained by the CUPA in the course of implementing the Unified Program or otherwise required by law to be retained by the CUPA. The CUPA shall provide this information to the Secretary within 60 days.

(g) Any other program reports required by federal or state law. The CUPA shall provide this information to the person or agency making the request within 60 days.

(h) An agency authorized to operate a program element or elements pursuant to Health and Safety Code sections 25404.3(f) or 25533(f) shall only report information on the implementation of the program element or elements that particular agency is authorized to operate and shall not include information related to the surcharge or single fee system.

(i) If the Secretary does not receive current information on the regulated business from each CUPA, the Secretary may use whatever information is available to estimate the data on regulated business.

(j) The Secretary shall provide copies of the received summary reports required pursuant to section 15290 to any state agency with program element responsibilities under the Unified Program upon request.

NOTE: Authority cited: Sections 25404(b), (c), (d) and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25299.3(b), 25404(b), (c) and (d), 25404.4(a)(1) and 25404.5(b), Health and Safety Code.

HISTORY

1. New section filed 11–14–94 as an emergency; operative 11–14–94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–20–95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–7–95 as an emergency; operative 3–7–95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–5–95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–7–95; operative 7–7–95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–4–95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–3–95 as an emergency; operative 11–3–95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3–2–96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–14–94 order including amendment of subsections (a) and (b) transmitted to OAL 12–15–95 and filed 1–31–96 (Register 96, No. 5).
6. Repealer and new section filed 1–8–99 as an emergency; operative 1–8–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–10–99 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 1–8–99 order, including amendment of subsection (k) transmitted to OAL 4–2–99 and filed 5–14–99 (Register 99, No. 20).
8. Change without regulatory effect redesignating and amending former subsection (c) as subsection (c)(i) and adopting new subsection (c)(ii) filed 7–11–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 28).
9. Change without regulatory effect repealing subsections (b) and (c)(ii), relettering subsections and amending newly designated subsection (b)(i) and NOTE filed 7–13–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 29).
10. Amendment of subsections (c)(2) and (f) filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).
11. Amendment of section heading and section filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).
12. Amendment of subsections (b)–(b)(2) filed 12–18–2007; operative 1–17–2008 (Register 2007, No. 51).
13. Change without regulatory effect amending subsections (a)(1), (a)(1)(B), (a)(1)(D), (a)(2)–(b), (d) and (e) filed 3–21–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

Article 7. Changes in the Program

§ 15300. Prior Notification and Approval by the Secretary.

(a) A CUPA must notify and receive approval from the Secretary prior to instituting the following significant changes:

(1) Addition or deletion of a program element;

(2) Replacement or addition of a PA.

(b) The CUPA shall submit a proposal for change in the Unified Program to the Secretary. The proposal shall include the following if applicable:

(1) Explanation of the proposed changes in sufficient detail to enable a full understanding of the roles and responsibilities of the CUPA, each member of a JPA, and all PA's;

(2) PA agreements for any new PA's or any changes in the role or responsibilities of any PA;

(3) Adequate information to enable the Secretary to determine that agencies proposed to implement some element of the Unified Program meet requirements including technical expertise, training, and education applicable to those elements; and

(4) Sufficient information to enable the Secretary to determine that adequate resources exist to carry out all aspects of the Unified Program.

(c) The CUPA shall notify any affected PA.

(d) Any PA implementing a program element that is subject to proposed change shall have the opportunity to comment on the proposed change.

(e) The Secretary shall review proposed changes to a Unified Program in consultation with other affected state agencies.

(1) The Secretary may conduct a public hearing if in the Secretary's opinion the proposed changes are likely to generate significant public interest.

(f) The Secretary shall approve or disapprove of the CUPA's proposal within 60 days of receipt of the proposal by certified mail.

(g) Within 30 days of receipt of the Secretary's decision, the CUPA may appeal a decision pursuant to this section.

(1) The appeal shall respond to the reasons specified in the Secretary's decision and may propose additional changes necessary to correct deficiencies in the original proposal.

(2) The appeal process shall be completed within 60 days of receipt of the appeal.

(3) The Secretary's final decision on the proposal changes shall be issued by certified mail within the 60–day appeal timeframe.

NOTE: Authority cited: Sections 25404, 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404.2(c), 25404.3, 25404.3(d) and 25404.4(a), Health and Safety Code.

HISTORY

1. New article 7 and section filed 11–14–94 as an emergency; operative 11–14–94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–20–95 or emergency language will be repealed by operation of law on the following day.
2. New article 7 and section refiled 3–7–95 as an emergency; operative 3–7–95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–5–95 or emergency language will be repealed by operation of law on the following day.
3. New article 7 and section refiled 7–7–95; operative 7–7–95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–4–95 or emergency language will be repealed by operation of law on the following day.
4. New article 7 and section refiled 11–3–95 as an emergency; operative 11–3–95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3–2–96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11–14–94 order transmitted to OAL 12–15–95 and filed 1–31–96 (Register 96, No. 5).
6. Amendment of section heading and section, including renumbering and amendment of former section 15310 to subsections 15300(b)–(g)(3), and amendment of NOTE filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).

7. Change without regulatory effect renumbering subsections (b)(1)–(2) filed 3–21–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15310. What are the notification and approval procedures for activities which require prior approval from the Secretary? [Repealed]

NOTE: Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Sections 25404.2(c), 25404.3 and 25404.4(a), Health and Safety Code.

HISTORY

1. New section filed 11–14–94 as an emergency; operative 11–14–94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–20–95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–7–95 as an emergency; operative 3–7–95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–5–95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–7–95; operative 7–7–95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–4–95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–3–95 as an emergency; operative 11–3–95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3–2–96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11–14–94 order transmitted to OAL 12–15–95 and filed 1–31–96 (Register 96, No. 5).
6. Renumbering of former section 15310 to subsections 15300(b)–(g)(3), and amendment of NOTE filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).
7. Change without regulatory effect amending section heading filed 3–21–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15320. Withdrawal of a Certification.

(a) If the Secretary finds the program or the program implementation to be deficient, the Secretary may:

(1) Issue a Notice of Intent to withdraw certification or

(2) Enter into a program improvement agreement with the CUPA to correct the deficiencies.

(b) A Notice of Intent to withdraw certification shall include specific reasons why the CUPA has failed to meet its obligations, in accordance with section 25404.4 of the Health and Safety Code, to adequately implement the Unified Program within its jurisdiction.

(1) A period of 60 days shall be allowed for the CUPA to respond to the Notice of Intent to withdraw certification and to correct deficiencies.

(2) A public hearing may be scheduled, at which the Secretary may hear the CUPA's response to the Notice of Intent to withdraw.

(c) If a city or JPA certified as a CUPA and implementing the Unified Program within a city desires to withdraw as a CUPA, it shall give 180 days notice to the Secretary and to the county within which the city is located or to the JPA with which the county has an agreement to implement the Unified Program prior to withdrawing from its Unified Program obligations. A successor CUPA will be chosen in accordance with the provisions of section 25404.3(f) of the Health and Safety Code.

NOTE: Authority cited: Sections 25404, 25404(b), 25404.3(g) and 25404.6(c), Health and Safety Code. Reference: Sections 25404.3(g) and 25404.4(a), Health and Safety Code.

HISTORY

1. New section and Appendices A–C filed 11–14–94 as an emergency; operative 11–14–94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–20–95 or emergency language will be repealed by operation of law on the following day.
2. New section and Appendices A–C refiled 3–7–95 as an emergency; operative 3–7–95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–5–95 or emergency language will be repealed by operation of law on the following day.
3. New section and Appendices A–C refiled 7–7–95; operative 7–7–95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–4–95 or emergency language will be repealed by operation of law on the following day.
4. New section and Appendices A–C refiled 11–3–95 as an emergency; operative 11–3–95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3–2–96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–14–94 order including amendment of subsection (c), repealer of Appendices A–C and new Appendices A–B and Tables 1–8 transmitted to OAL 12–15–95 and filed 1–31–96 (Register 96, No. 5).
6. Relocation and amendment of appendices A and B to new section 15620 filed 1–8–99 as an emergency; operative 1–8–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–10–99 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 1–8–99 order transmitted to OAL 4–2–99 and filed 5–14–99 (Register 99, No. 20).
8. Amendment of section heading and section filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).

Article 8. Performance Evaluations

§ 15330. Evaluation of CUPAs and PA's.

(a) The Secretary shall evaluate a CUPA's implementation of the requirements of Health and Safety Code chapter 6.11 and California Code of Regulations, title 27, chapter 1 at least once every three years. The Secretary shall coordinate the evaluation of a CUPA with all state agencies with Unified Program responsibilities.

(1) The annual self–auditing and reporting requirements pursuant to sections 15280 and 15290 and the specific performance standards established in regulation by the Secretary or the state agencies responsible for one or more of the program elements shall be used for the evaluation of the CUPA.

(2) Nothing in this section shall limit the authority of the Secretary to request records or documents for use in conducting the state performance evaluation that are normally maintained by the CUPA in the course of implementing the Unified Program or otherwise required by law to be retained by the CUPA.

(3) For an agency authorized to continue its role, responsibilities, and authority for a program element or elements pursuant to Health and Safety Code sections 25404.3(f) or 25533(f), the performance evaluation shall only cover the program element or elements that particular agency is authorized to continue to operate.

(b) The CUPA shall evaluate its PA's on an annual basis at the time of the self–audit pursuant to section 15280, or as necessary to maintain standards required in Health and Safety Code chapter 6.11, the statutes governing specific program elements, and the specific performance standards established in regulation by the Secretary or the state agencies responsible for overseeing one or more of the program elements.

(1) A PA that ceases to meet minimum qualifications or fails to implement its program element(s) as described in the Unified Program application approved by the Secretary at any time during the term of its agreement with the CUPA shall enter into a program improvement agreement with the CUPA. The program improvement agreement shall specify the areas of improvement, minimum accomplishments necessary, and time frames that shall be met.

(A) The CUPA may apply to the Secretary, in accordance with section 15300, for approval to replace a PA that fails to perform according to the program improvement agreement.

NOTE: Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25201, 25201.5, 25201.13, 25201.14, 25286, 25287, 25404.2(c), 25404.3(d), 25404.4(a)(1) and 25506, Health and Safety Code.

HISTORY

1. New article 8 (section 15330) and section filed 1–8–99 as an emergency; operative 1–8–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–10–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–8–99 order, including amendment of subsection (a)(3) and repealer of subsection (c), transmitted to OAL 4–2–99 and filed 5–14–99 (Register 99, No. 20).
3. Amendment of article 8 heading, section heading and section filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).
4. Change without regulatory effect amending section heading and subsections (a) and (b) filed 3–21–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

Article 9. Unified Program Standardized Forms and Formats

§ 15400. Unified Program Consolidated Form.

(a) The UPCF, defined in section 15110 and shown in division 3, subdivision 1, chapter 6, forms, is a standardized set of forms to be used by CUPAs in the Unified Program to collect information from regulated businesses. The UPCF is a single, comprehensive format that consolidates business–to–CUPA reporting requirements within the Unified Program.

(b) The UPCF may be reproduced or electronically duplicated as needed.

NOTE: Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25281.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.

HISTORY

1. New article 9 (sections 15400–15410) and section filed 1–8–99 as an emergency; operative 1–8–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–10–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–8–99 order transmitted to OAL 4–2–99 and filed 5–14–99 (Register 99, No. 20).
3. Amendment of subsection (a) filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).
4. Amendment of section heading and subsection (a) filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).

§ 15400.1. Format of the UPCF and its Required Elements.

(a) The format of the UPCF refers to the way it is organized [see figure 5]. The UPCF contains the following sections:

(1) Facility Information, to be completed by all regulated businesses:

(A) Business Activities

(B) Business Owner/Operator Identification

(2) Hazardous Materials:

(A) Hazardous Materials Inventory–Chemical Description

(3) Tanks:

(A) UST Operating Permit Application Facility Information

(B) UST Operating Permit Application Tank Information

(C) UST Certification of Installation/Modification

(D) UST Monitoring Plan

(4) Hazardous Waste

(A) Recyclable Materials Report

(B) Onsite Hazardous Waste Treatment Notification–Facility

(C) Onsite Hazardous Waste Treatment Notification–Unit

(D) Certification of Financial Assurance for PBR and Conditionally Authorized Onsite Treaters

(E) Remote Waste Consolidation Site Annual Notification

(F) Hazardous Waste Tank Closure Certification

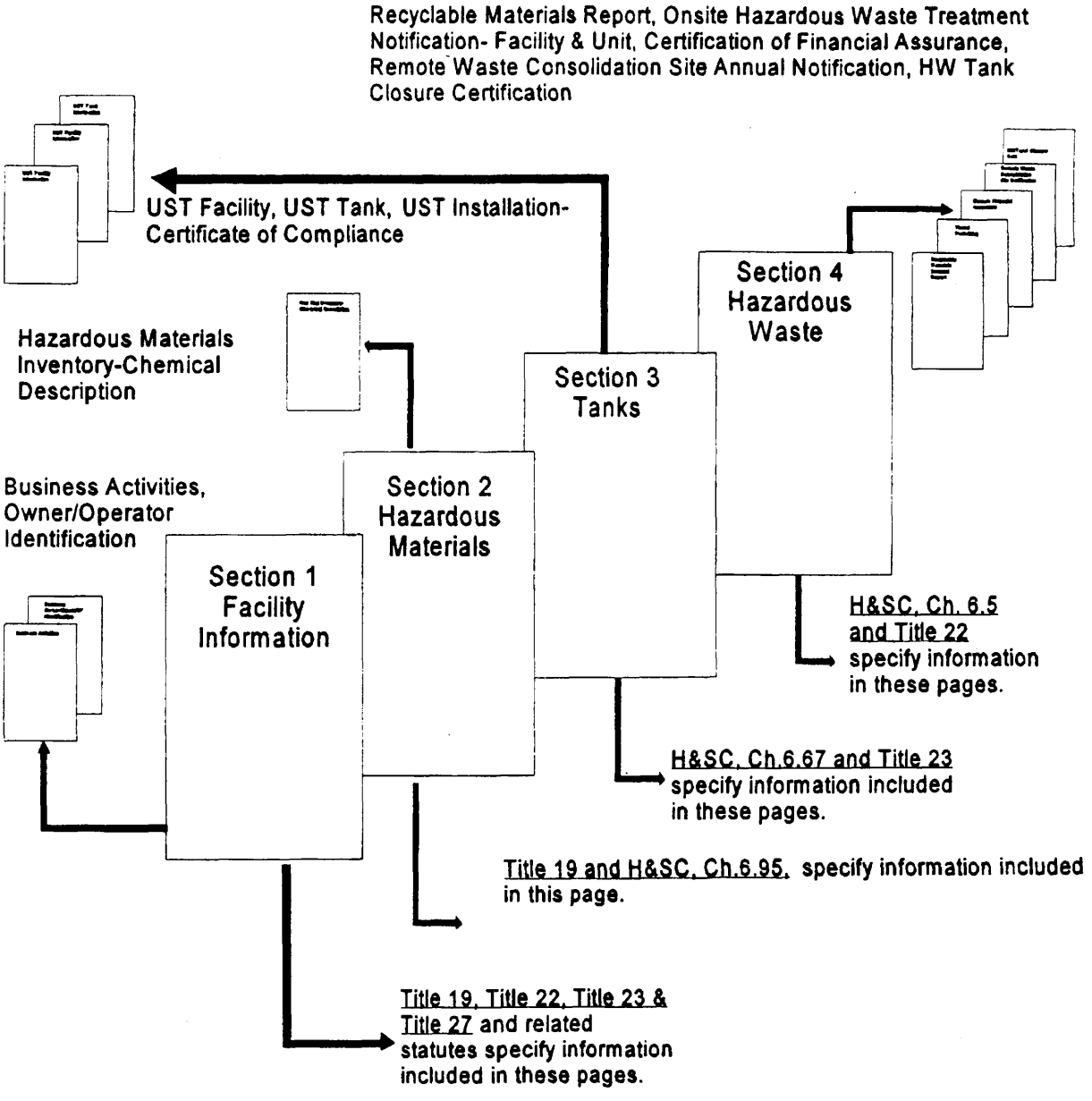
(b) Regulated businesses shall report required elements that are applicable to their business to the CUPA by submitting the sections of the UPCF, a business–generated facsimile, or an alternative version developed by their CUPA.

NOTE: Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25218.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.

HISTORY

1. New section and figure 5 filed 1–8–99 as an emergency; operative 1–8–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–10–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–8–99 order transmitted to OAL 4–2–99 and filed 5–14–99 (Register 99, No. 20).
3. Amendment of section heading and section filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).
4. Amendment of subsections (a)(3)(A)–(a)(3)(C) and new subsection (a)(3)(D) filed 12–18–2007; operative 1–17–2008 (Register 2007, No. 51).

Figure 5: Unified Program Consolidated Form



§ 15400.2. What is the relationship between the UPCF and the forms previously adopted by State departments for the individual program elements? [Repealed]

NOTE: Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25201.14, 25218.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.

HISTORY

1. New section filed 1–8–99 as an emergency; operative 1–8–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–10–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–8–99 order transmitted to OAL 4–2–99 and filed 5–14–99 (Register 99, No. 20).
3. Repealer filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).
4. Change without regulatory effect amending section heading filed 3–21–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15400.3. Use the UPCF and Alternative Versions.

(a) The CUPA shall distribute copies of the UPCF to any regulated business or member of the public upon request. A CUPA may add the name of the CUPA, a logo, and address, phone number, and other identifying information to the UPCF title or footer on one or more pages, without the customized UPCF being considered an alternative version subject to the conditions adopted by this section.

(b) The CUPA shall accept the UPCF as shown in division 3, subdivision 1, chapter 6, forms, from any regulated business that chooses to use it, even if the CUPA adopts one or more alternative versions of the UPCF.

NOTE: Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25503.5(a) and (b)(1) and (2), 25505 and 25509, Health and Safety Code.

HISTORY

1. New section filed 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-8-99 order, including amendment of subsection (c)(6), transmitted to OAL 4-2-99 and filed 5-14-99 (Register 99, No. 20).
3. Amendment of subsection (b) filed 11-16-2004; operative 12-16-2004 (Register 2004, No. 47).
4. Amendment of section heading and section filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).

§ 15400.4. CUPA-Required Additional Information.

(a) CUPAs shall collect additional local information on either supplemental pages or within the UPCF in the boxes provided on the Business Owner/Operator Identification page and the Hazardous Materials Inventory-Chemical Description page.

(b) CUPAs that have created one or more alternative versions of the UPCF [refer to § 15400.3(c)] may add supplemental requests for information within the alternative version, to the extent space is available.

(c) CUPAs are prohibited from requesting duplicative information in a different format if that information is part of the data dictionary, the UPCF, or that CUPA's alternative version of the UPCF.

NOTE: Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25503.3(a) and 25505, Health and Safety Code.

HISTORY

1. New section filed 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-8-99 order transmitted to OAL 4-2-99 and filed 5-14-99 (Register 99, No. 20).
3. Amendment of section heading and section filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).

§ 15410. What forms must be used by Household Hazardous Waste facilities regulated under the Unified Program?

Reserved—under development by Cal/EPA the Department of Toxic Substances Control

Article 10. Business Reporting to CUPAs

§ 15600. Required Business-to-CUPA Submission.

(a) A copy of the Business Activities Page and Business Owner/Operator Page shall be submitted with every submission of pages of the UPCF.

(b) Regulated businesses are required to meet the reporting requirements of any applicable program element of the Unified Program. Many of those reporting requirements are satisfied by completing sections of either the UPCF, an alternative version [refer to § 15400.3], or a computer-generated facsimile.

(c) Businesses may report to the CUPA electronically, if the CUPA agrees [refer to §§ 15185(g) and (h) and 15188(d)].

NOTE: Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25218.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.

HISTORY

1. New article 10 (sections 15600-15620) and section filed 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-8-99 order transmitted to OAL 4-2-99 and filed 5-14-99 (Register 99, No. 20).
3. Amendment of section heading and section filed 4-13-2007; operative 5-13-2007 (Register 2007, No. 15).
4. Change without regulatory effect amending subsection (b) filed 3-21-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 12).

§ 15610. Use of UPCF and Business-Generated Facsimiles.

(a) Regulated businesses shall use either the applicable sections of the UPCF or a business-generated alternative version of the UPCF.

(b) A facsimile of the UPCF shall meet the following specifications:

(1) It shall contain all the information required on the UPCF and defined by the data dictionary for those regulated businesses. It shall use the same section format and present the required information in the order and general sequencing on the page as shown on the UPCF. The facsimile form shall be printed on 8 1/2 by 11-inch paper in 'portrait' format. It shall retain all labels and identifiers for the UPCF sections, pages, and subdivisions. Current page breaks shall be maintained, although a page for supplemental local information may be added between UPCF page breaks.

(2) It is not required to be an exact copy or to use identical fonts, boxing, shading, or other graphic design elements of the UPCF.

(c) The CUPA shall determine if business-generated facsimiles comply with the requirements of subdivision (b). The CUPA may also allow businesses to submit facsimiles of their alternative versions of the UPCF.

(d) To the extent not prohibited by law, the CUPA may assist businesses to revise their information by providing copies of completed reports based on previous submittals. These reports shall be in the general format of the UPCF or the alternative version. A business that revises, certifies, and returns this report to the CUPA satisfies the requirements to complete the appropriate sections of the UPCF. Regulated businesses are not required to use these CUPA-generated reports and have the option to submit updated information using the UPCF or a facsimile.

(e) To the extent not prohibited by law, a business subject to the hazardous materials reporting requirements may comply with the annual inventory reporting requirement by submitting a certification statement to the CUPA if both of the following apply:

(1) The business has previously filed the appropriate pages of the UPCF or an alternative version; and

(2) The business owner or officially designated representative signs and attests to these statements:

(A) The information contained in the annual inventory form most recently submitted to the CUPA is complete, accurate, and up to date.

(B) There has been no change in the quantity of any hazardous material as reported in the most recently submitted annual inventory form.

(C) No hazardous materials subject to the inventory requirements are being handled that are not listed on the most recently submitted annual inventory form.

[The next page is 423.]

(D) The most recently submitted annual inventory form contains the information required by section 11022 of title 42 of the United States Code.

NOTE: Authority cited: Sections 25404(b), (c), (d), and (e), 25404.6(c) and 25505(d), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25218.2, 25218.9, 25245.4, 25286, 25287, 25501, 25503.3(b) and (c), 25503.5(c), 25505, 25506 and 25509, Health and Safety Code.

HISTORY

1. New section filed 1–8–99 as an emergency; operative 1–8–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–10–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–8–99 order transmitted to OAL 4–2–99 and filed 5–14–99 (Register 99, No. 20).
3. Amendment of section heading and section filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).

§ 15620. Updated, Amended, Revised, or Resubmitted UPCF.

(a) Regulated businesses shall comply with the established dates or events that trigger the requirements for businesses to submit information required as part of the Unified Program and submitting the appropriate sections of the UPCF, the alternative version, or a computer-generated facsimile. A CUPA may establish other specific dates for submission of information consistent with state and federal law.

(b) Different parts of the UPCF, the alternative version, or a computer-generated facsimile may be submitted separately. Each submission shall be accompanied by the Business Owner/Operator Identification page and shall be signed with an original signature. The Business Activities page shall also be resubmitted whenever any information reported on it changes.

NOTE: Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25218.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.

HISTORY

1. New section, relocation and amendment of appendices A and B from section 15320 to new section 15620, and new appendices C–E filed 1–8–99 as an emergency; operative 1–8–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–10–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–8–99 order, including amendment of appendix B and repealer and new appendices C–E, transmitted to OAL 4–2–99 and filed 5–14–99 (Register 99, No. 20).
3. Relocation and amendment of appendices C–F to new division 3, subdivision 1, chapters 1–6, filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).
4. Amendment of section heading and section filed 4–13–2007; operative 5–13–2007 (Register 2007, No. 15).
5. Amendment of Appendix B (reports 3, 4 and 6) filed 12–18–2007; operative 1–17–2008 (Register 2007, No. 51).

Appendix A
Certified Unified Program Agency (CUPA)
Application Cover Sheet
Completeness Checklist

JURISDICTION NAME: _____
CONTACT PERSON NAME: _____
ADDRESS: _____
MAILING ADDRESS (if different): _____
DATE OF APPLICATION: _____
TELEPHONE NUMBER: _____ FACSIMILE NUMBER: _____

ITEM	DESCRIPTION	CITATION	PAGE#
1	Appendix A\or this checklist	15150(e)(1)	
2	Demographic Information	15150(e)(4)	
3	Applicant Information	15150	
4	Implementation History	15150(e)(16)	
5	Geographic Scope	15150(e)(3), (e)(2)	
6	Structure of CUPA	15150(e)(5)	
7	Authorization	15150(c)	
7A	Regulatory Authority		
7B	Ordinances & Resolutions	15150(c)(1) & (2)	
8	CUPA and PA Issues	15150(d)	
9	Unified Program Implementation Plan	15150(e)(6)	
10	Consolidated Permit Plan	15150(e)(10)	
11	Inspection & Enforcement Plan	15150(e)(11)	
12	Fee Accountability Program	15150(e)(12)	
12A	Staff Resource Adequacy	15170(b)(3)(A–E) (b)(4), (b)(5)	
12B	Budget Adequacy/Annual Funding	15150(e)(14) 15170(c)	
12C	Contents of Fee Accountability Program and Cost Calculation Methods	15170(f) 15210(b)(1)	
13	Single Fee Implementation Plan	15150(e)(13)	
14	Reporting & Auditing Requirements	15150(e)(15)	
15	Recordkeeping & Cost Accounting Systems	15150(e)(17)	
16	Title 22, CCR, Section 66272.10 Compliance	15150(e)(18)	
17	Training and Technical Expertise	15150(e)(7) 15150(e)(8)	
18	Additional Programs Elements	15150(e)(19)	
19	No Adverse Impacts/Less Fragmentation/Coordination and Consistency	15150(e)(20) 15150(e)(21)	
20	Certifications	15150(e)(9) 15150(e)(14) 15150(e)(15)	
21	Signature of Authorized Representative	15150(b)	
22	County Waiver of Surcharge Assessment (Optional)	HSC 25404.5(d)	
	TABLES		
1	Enumerations/Demographic Information	15150(e)(4)	
2	Summary of Program Activities	15150(e)(16)	
3	Time Allocation of Staff	15150(e)(14) 15170(b)	
4	Training and Technical Expertise	15150(e)(7) 15150(e)(8)	
5	Reporting and Auditing Requirements		
6	Reporting and Auditing Requirements		
7	Surcharge Transmittal Report	15250(b)	
8	Annual Single Fee Summary Report	15280(b)	
	CHARTS		
	Implementation Timeline	15150(e)(6)(A)	
	FIGURE		
	Organizational Chart	15150(e)(5)	

Only one signature will be required for the Certified Unified Program Agency Application. Please see the signature block located in Attachment 2 (Certification Sheet).

Appendix B

CERTIFIED UNIFIED PROGRAM AGENCY (CUPA) APPLICANT CERTIFICATION

I hereby certify the following:

1. I have read and understand Sections 15130 and 15150(e)(9), (14) and (15) of Article 3, Chapter 1, Subdivision 4, Division 1, Title 27 of the California Code of Regulations.

2. The administrative procedures of the proposed Unified Program, as implemented by my agency, will meet the standards described in Section 15180 of Title 27, CCR.

3. The Unified Program, as implemented by my agency, will meet the reporting requirements as described in Article 6 of Title 27, CCR.

4. All responsible agencies involved in the implementation of the Unified Program, as proposed by this application, have adequate resources to carry out the Unified Program.

5. If I am a non-county entity, that I have notified the county of my intent to apply to administer the Unified Program within my jurisdiction.

6. I agree to use state certified laboratories for analysis required under the Generator Program by Health and Safety Code Chapter 6.5 (refer to Health and Safety Code Section 25198)

7. The information provided within this application is true to the best of my knowledge.

8. I understand that this certification is an integral part of the formal application for certification as a Certified Unified Program Agency, and that any false statement may be grounds for denial or revocation of the Unified Program authorization by the Secretary of the California Environmental Protection Agency.

_____ _____

Signature of Elected Official or Authorized Representative — Date

_____

Title

_____

Jurisdiction

Jurisdiction_____

TABLE 1
ENUMERATIONS/DEMOGRAPHIC INFORMATION

PROGRAM	#OF BUSINESSES OR #USTs	MANDATED INSPECTION FREQUENCY	APPLICANT INSPECTION FREQUENCY	AGENCY TO INSPECT
Total $ of all regulated businesses				
UST program		at least once every 3 years		
Total # of USTs				
SPCC				
HMMP*				
HMRRP		at least once every 3 years		
PBR		at least once every 3 years		
CA		at least once every 3 years		
CE		at least once every 3 years		
RMPP		at least once every 3 years		
Generators		no mandated frequency**		

*If the HMMP is fully covered by the HMRRP, leave this row blank.

**Although the generator program has no mandated inspection frequency, if generator inspections are to be incorporated as part of the Unified Program, their in-

spection frequency should be coordinated with the inspection frequencies of the other Unified Program elements.

Regulatory Citations: Title 27, CCR Section 15150(e)(4)
Title 27, CCR Section 15170(b)(1)
Title 27, CCR Section 15200(b)
Title 27, CCR Section 15200(f)(1)(A–C)
Title 27, CCR Section 15210(b)(1)(F–H)
Title 27, CCR Section 15150(e)(16)
Title 27, CCR Section 15200(b)(1–5)

(Cal/EPA T01 11/95)

Instructions for Table 1

Fill in the Jurisdiction name that is the reporting applicant agency or CUPA.
Fill out the blank and unshaded boxes.

OF BUSINESSES – Number of businesses regulated under each of the programs listed.

MANDATED INSPECTION FREQUENCY – Lists the statutorily required minimum inspection frequency.

APPLICANT INSPECTION FREQUENCY – The inspection frequency established by the applicant agency in the Inspection and Enforcement Plan.

AGENCY TO INSPECT – Which internal CUPA department, office, or agency will inspect or which external local government (participating agency) will inspect.

Total # of all regulated businesses – Total of all businesses within all regulated programs. Do not double count businesses for this total.

Example: A business that stores hazardous waste in two underground tanks for use in an onsite PBR treatment process.
This business would count as one (1) regulated business for the "Total # of all regulated businesses" block of the chart. This same business would count as one (1) regulated business in the Underground Storage Tank program (UST program) with a total of two Underground Storage Tanks (UST's), one (1) regulated business in the HMRRP, one (1) regulated business in the generator program, and one (1) regulated business in the PBR Onsite Hazardous Waste Treatment program.

UST program – Underground Storage Tank program

Total # of USTs – Total number of underground storage tanks that the business has onsite.

SPCC – Spill Prevention Control and Countermeasure Plan.

HMMP – Hazardous Material Management Plan.

HMRRP – Hazardous Materials Release Response Plan and Inventory Program.

PBR – Permit–By–Rule Onsite Hazardous Waste Treatment program.

CA – Conditionally Authorized Onsite Hazardous Waste Treatment program.

CE – Conditionally Exempt Onsite Hazardous Waste Treatment program.

RMPP – Risk Management and Prevention Program.

Generators – Hazardous Waste Generator program.

Jurisdiction: _____

TABLE 2

SUMMARY OF PROGRAM ACTIVITIES

FISCAL YEAR _____/_____

	PROGRAM HISTORY		INSPECTIONS					ENFORCEMENT ACTIONS TAKEN					
	PROGRAM IN PLACE IN ABOVE FISCAL YR? (Y/N)	ESTIMATED BUDGET FOR THIS PROGRAM DURING THE FISCAL YR ABOVE (IF PROGRAM WAS IN PLACE)	# OF ROUTINE PLANNED	# OF ROUTINE COMPLETED	# OF COMPLAINT COMPLETED	# OF MINOR VIOLS	# OF MAJOR VIOLS	INFORMAL ACTION/ RETURNED TO COMPLIANCE	ADMIN	CIVIL	CRIMINAL	TOTAL PENALTIES ASSESSED	TOTAL PENALTIES COLLECTED
UST													
SPCC													
HMMP													
HMRRP													
PBR													
CA													
CE													
RMPP													
GENERATOR													

Regulatory Citations:
Title 27 CCR Section 15280(a)(2), Title 27 CCR Sections 15150(e)(16)(B)

(Cal/EPA T02 11/95)

Instructions for Table 2

Fill in the Jurisdiction name that is the reporting applicant agency or CUPA.
Fill in the fiscal year that the Table is used for.
Fill out the blank and unshaded boxes.
See instructions for Table 1 for definitions of program abbreviations.

PROGRAM HISTORY:
PROGRAM IN PLACE IN ABOVE FISCAL YR? (Y/N) – Insert yes or no as appropriate.

ESTIMATED BUDGET FOR THIS PROGRAM DURING THE FISCAL YR ABOVE (IF PROGRAM WAS IN PLACE) – Give the dollar amount of the estimated budget or the actual budget.

INSPECTIONS:
OF ROUTINE PLANNED – Number of routine inspections planned in the fiscal year noted.

OF ROUTINE COMPLETED – Number of routine inspections Completed in the fiscal year noted.

OF COMPLAINT COMPLETED – Number of complaint inspections completed in the fiscal year noted.

OF MINOR VIOLS – Number of minor violations in the fiscal year noted.

OF MAJOR VIOL – Number of major violations in the fiscal year noted.

ENFORCEMENT ACTIONS TAKEN:
INFORMAL ACTION/RETURNED TO COMPLIANCE – The number of informal enforcement actions or return to compliance actions taken during the fiscal year noted.

ADMIN – The number of administrative enforcement actions taken during the fiscal year noted.

CIVIL – The number of civil enforcement actions taken during the fiscal year noted.

CRIMINAL – The number of criminal enforcement actions taken during the fiscal year noted.

TOTAL PENALTIES ASSESSED – The total dollar amount of penalties assessed in the fiscal year noted.

TOTAL PENALTIES COLLECTED – The total dollar amount of penalties collected in the fiscal year noted.

Jurisdiction:_____

TABLE 3
TIME ALLOCATION OF STAFF

	# of inspections /yr *See 1 below	hrs/ inspection	tot. (hrs/yr)	# of enforcements /yr * See 2 below	hrs/ enforcement	tot. enforcement (hrs/yr)	# of permit/ yr___ * See 3 below	hrs/ permit	tot. permit (hrs /yr)	# of trainings /yr *See 4 below	hrs/ training	tot. training (hrs/ yr)	tot. managerial hrs *See 5 below	All Other Indirect Activities
UST														
SPCC														
HMMP														
HMRRP														
PBR														
CA														
CE														
RMPP														
GENER														
TOTAL														

The following are guidelines/definitions to be used in determining time allocations:

1. Inspection: inspections travel, research, analysis of findings, documentation, warnings and notices
2. Enforcement: includes warnings, notices, meetings, hearings, legal proceedings and documentation
3. Permit activities: includes application review, modification, revision and evaluation
4. Training: includes field, meeting, seminars, workshops, courses and literature reviews
5. Management: includes day–to–day scheduling and supervision

Regulatory Citations
Title 27 CCR Sections 15170(b)(3)(A–E)
Title 27 CCR Sections 15170(b)(4)
Title 27 CCR Sections 15170(b)(5)
Title 27 CCR Sections 15150(e)(14)

(Cal/EPA T03 11/95)

Jurisdiction _____

TABLE 4
TRAINING AND EXPERTISE

	Please indicate the number of staff with experience related to any/all program elements:			
Job Title	0 – 2 years	3 – 5 years	6 – 9 years	10+ years

It is suggested that all job titles in the first column of the table be provided in the following format for each applicable program element:

Program element, staff level
Example: UST, Supervisor(s)
Generator, Field Staff

See instructions for Table 1 for program abbreviations. (Cal/EPA T04 11/95)

Date Submitted:_____ Fiscal Year:_____

Check Number:_____ Telephone Number: (____)_____

Completed by:_____ CUPA:_____

Report 1

SURCHARGE TRANSMITTAL REPORT

27 CCR §15250

	Total Amount of Surcharge Remitted
CUPA OVERSIGHT	
UNDERGROUND STORAGE TANKS	
CALARP	
TOTALS	

Report 2

ANNUAL SINGLE FEE SUMMARY REPORT

27 CCR § 15290

Completed By: _____

Date Submitted: _____ Telephone Number: (_____) _____

Fiscal Year: _____ CUPA: _____

	Total amount of single fee billed	Total amount of single fee waived	Total amount of single fee collected		
SINGLE FEE					
	Amount of single fee billed for PAs	Total amount of single fee collected for Pas	Total amount of single fee remitted for Pas	Total amount of single fee still owed Pas	
PARTICIPATING AGENCIES					
SURCHARGE	Total amount of surcharge billed	Total amount of surcharge waived	Surcharge collected	Total collections remitted to State	Total Amount owed to State
CUPA Oversight					
CalARP					
UST					
SURCHARGE TOTALS					

COUNTS					
Total Regulated Businesses*		Underground Storage Tanks		Underground Storage Tank Facilities	
Permit by Rule		Conditional Authorization		Conditional Exemption	
CalARP Program - Total Stationary Sources		Total Businesses Subject to CalARP Program Surcharge		Total Stationary Sources Granted a RMP Waiver Determination	

* The Report 2 counts of regulated businesses should be consistent with the counts shown on Report 3.

Report 3

UNIFIED PROGRAM
ANNUAL INSPECTION SUMMARY REPORT
27 CCR § 15290

Completed By: _____ (print name)

Date Submitted: _____

Fiscal Year: _____

CUPA Name: _____

Telephone Number: ( ) _____

PROGRAM ELEMENTS	1 No. of Regulated Businesses in each Program Element	2 No. of Regulated Businesses Inspected in each Program Element	3 Number of Routine Inspections	4 % of Routine Inspections w/Class I or II violation that RTC w/in 90 Days	5 Number of Other Inspections
Hazardous Materials Release Response Plans (HMRRP)					
California Accidental Release Prevention (CalARP)					
Underground Storage Tank (UST) Facilities					
Aboveground Petroleum Storage Tank (AST) Facilities					
Hazardous Waste Generators					
Generators (ALL)					
RCRA Large Quantity Generators					
Onsite Hazardous Waste Treatment (PBR, CA, CE)					
Household HW (HHW)					

UPCF rev. (12/2007)

Report 4

UNIFIED PROGRAM
ANNUAL ENFORCEMENT SUMMARY REPORT
27 CCR § 15290

Completed By: _____ (print name)
Fiscal Year: _____
Telephone Number: ( ) _____

Date Submitted: _____
CUPA Name: _____

VIOLATIONS INFORMATION				ENFORCEMENT ACTIONS TAKEN								
PROGRAM ELEMENTS	Number of Facilities with Violation Type			No. of Informal Actions	No. of Formal Actions	Number of Local AEOs	Total Number of AEOs	AEOs Issued within 240 Days	Number of Civil/Criminal Referrals		Cash Fines/Penalties Imposed	Value of SEP Penalties Imposed
	Class I	Class II	Minor						Total Number	Referred within 360 Days		
Hazardous Materials Release Response Plans (HMRRP)												
California Accidental Release Prevention (CalARP)												
Underground Storage Tank (UST) Facilities												
Aboveground Petroleum Storage Tank (AST) Facilities												
Hazardous Waste Generators												
Generators (ALL)												
RCRA Large Quantity Generators (LQG)												
Hazardous Waste Treatment (PBR, CA, CE)												
Household Hazardous Waste (HHW)												
Recyclers												

UPCF rev. (12/2007)

Report 5

BIENNIAL TIERED PERMITTING RELEASE REPORT
27 CCR §15290 and HSC § 25171.5(a)(2)

Completed By: _____ Date Submitted: _____
Fiscal Year: _____ CUPA: _____

1 EPA ID#	2 Facility Name Facility Address	3 Highest Tier/ Type of Facility (PBR, CA, CE)	4 Date of Release	5 Description of Release	6 Corrective Action Completed? (y/n)

(add additional rows as needed)

UNIFIED PROGRAM REPORT 6 (Side One)
SEMI-ANNUAL UNDERGROUND STORAGE TANK (UST) PROGRAM REPORT
27 CCR §15290 and 23 CCR § 2713

AGENCY CODE	REPORT FOR (Reporting Period, Year)
AGENCY NAME	
ADDRESS	
CITY, STATE, ZIP	
PERSON COMPLETING FORM	
PHONE NUMBER	
EMAIL ADDRESS	

STATUS OR ACTIVITY	Column A (1) Total number as of previous reporting period	Column B Number of new facilities or systems this reporting period	Column C Number of facilities or systems permanently closed this reporting period
1. Regulated facilities with UST systems			
2. Active Petroleum UST systems			
3. Active Non-petroleum UST systems			
		Total number this reporting period	
4. UST facility inspections			
a. Facilities in compliance with release detection requirements only			
b. Facilities in compliance with release prevention requirements only			
c. Facilities in compliance with both release detection and release prevention requirements			
d. Facilities with one or more violations of both release detection and release prevention requirements			

1. If you have any corrections to numbers in Column A, please explain here: ±

(i.e. Item I: -2 *[2 facilities closed]*)

RED TAG ☐ There were no Red Tags issued during this reporting period.

To Report Red Tag information – please use other side of this form or use Side Two of this form if responding electronically.

REPORT 6 12/2007

UNIFIED PROGRAM REPORT 6 (Side Two)

AGENCY CODE	REPORT FOR (Reporting Period, Year)

5. Number of red tags issued for significant violations		

Specific information regarding red tags issued. Please insert below the requested information for each facility receiving a red tag this reporting period. (**Please note: the Name entry cell below will wrap text so just use commas between name, street, etc, do not hit enter**)

a. Facility Name & Address (Street, City, Zip)	b. Red Tag #	c. Date Affixed	d. Date Removed	e. Significant Violation
Tank Owner Name				(enter 1, 2, or 3)[2]
Tank Operator Name				
a. Facility Name & Address (Street, City, Zip)	b. Red Tag #	c. Date Affixed	d. Date Removed	e. Significant Violation
Tank Owner Name				(enter 1, 2, or 3)[2]
Tank Operator Name				
a. Facility Name & Address (Street, City, Zip)	b. Red Tag #	c. Date Affixed	d. Date Removed	e. Significant Violation
Tank Owner Name				(enter 1, 2, or 3)[2]
Tank Operator Name				
a. Facility Name & Address (Street, City, Zip)	b. Red Tag #	c. Date Affixed	d. Date Removed	e. Significant Violation
Tank Owner Name				(enter 1, 2, or 3)[2]
Tank Operator Name				

2. *SIGNIFICANT VIOLATION NUMBER ENTERED IS FOR REASON BELOW*

1. **liquid release 2. impair leak detection 3. chronic/recalcitrant owner/operator**

Red Tag Information Contact Person (if different from person completing form on Side One)

Name, phone number, and email address

REPORT 6 12/2007

Article 8. Unified Agency Review of Hazardous Materials Release Sites

§ 16100. Applicability.

NOTE: Authority cited: Section 25261, Health and Safety Code. Reference: Section 25261, Health and Safety Code.

HISTORY

1. New article 8 (sections 16100–16150) and section filed 12–11–98 as an emergency; operative 12–11–98 (Register 98, No. 50). A Certificate of Compliance must be transmitted to OAL by 3–10–99 or emergency language will be repealed by operation of law on the following day.
2. Repealer of article 8 (sections 16100–16150) and section by operation of Government Code section 11346.1(g) (Register 2000, No. 20).

§ 16110. General Provisions.

NOTE: Authority cited: Section 25261, Health and Safety Code. Reference: Section 25264, Health and Safety Code.

HISTORY

1. New section filed 12–11–98 as an emergency; operative 12–11–98 (Register 98, No. 50). A Certificate of Compliance must be transmitted to OAL by 3–10–99 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 20).

§ 16120. Definitions.

NOTE: Authority cited: Section 25261, Health and Safety Code. Reference: Sections 25261, 25264 and 25265, Health and Safety Code.

HISTORY

1. New section filed 12–11–98 as an emergency; operative 12–11–98 (Register 98, No. 50). A Certificate of Compliance must be transmitted to OAL by 3–10–99 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 20).

§ 16130. Designation of Lead Agency.

NOTE: Authority cited: Section 25261, Health and Safety Code. Reference: Sections 25262 and 25267, Health and Safety Code.

HISTORY

1. New section filed 12–11–98 as an emergency; operative 12–11–98 (Register 98, No. 50). A Certificate of Compliance must be transmitted to OAL by 3–10–99 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 20).

§ 16140. Determination of Administering Agency Qualification.

NOTE: Authority cited: Section 25261, Health and Safety Code. Reference: Section 25262, Health and Safety Code.

HISTORY

1. New section filed 12–11–98 as an emergency; operative 12–11–98 (Register 98, No. 50). A Certificate of Compliance must be transmitted to OAL by 3–10–99 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 20).

§ 16150. Site Certification.

NOTE: Authority cited: Section 25261, Health and Safety Code. Reference: Sections 25264 and 25265, Health and Safety Code.

HISTORY

1. New section filed 12–11–98 as an emergency; operative 12–11–98 (Register 98, No. 50). A Certificate of Compliance must be transmitted to OAL by 3–10–99 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 20).

* * *

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Title 27. Environmental Protection

Division 2. Solid Waste

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Division 2. Solid Waste

Section Title Key:

The code "SWRCB –" at the beginning of a section title indicates the section is promulgated by the State Water Resources Control Board;

The code "CIWMB –" at the beginning of a section title indicates the section is promulgated by the California Integrated Waste Management Board;

The code "(T14: §###)" following the title of a CIWMB promulgated section indicates the section's former location (§###) in Division 7 of Title 14, California Code of Regulations (CCR). Such a code following the title of an SWRCB–promulgated section indicates the source (in Title 14) of a water quality protection requirement the SWRCB has incorporated, pursuant to AB–1220;

The code "(C15: §###)" or "[C15: §###(#)]" following the title of a SWRCB–promulgated section indicates the section's former location (§###) in Chapter 15 of Division 3 of Title 23, CCR;

The code "(new)" following the title of any section indicates that the section is newly promulgated (i.e., has no antecedent in Title 23 or Title 14).

Subdivision 1. Consolidated Regulations for Treatment, Storage, Processing or Disposal of Solid Waste

Chapter 1. General

Article 1. Purpose, Scope and Applicability of this Subdivision

§ 20005. CIWMB—Purpose Scope and Applicability of CIWMB Standards. (T14:§17601)

(a) Regulatory standards promulgated by the California Integrated Waste Management Board (CIWMB) in this division implement only the jurisdiction of the CIWMB, as set forth in Division 30, Commencing with §40000, of the PRC, and shall not be construed by the CIWMB or the enforcement agency (EA) in a manner that would infringe upon or interfere with the administration or implementation of the comprehensive program of regulatory standards promulgated by the SWRCB in this title for the protection of water quality, pursuant to Division 7, commencing with §13000, of the Water Code.

(b) The purpose for the CIWMB standards in this subdivision is to protect public health and safety and the environment. The CIWMB standards in this chapter do not address air or water quality aspects of the environment that are regulated by other state or local agencies.

(c) The standards promulgated by the CIWMB in Chapters 1, 2, 3, and applicable portions of Chapter 4 shall apply to all disposal sites meaning active, inactive closed or abandoned, as defined in §40122 of the Public Resources Code including facilities or equipment used at the disposal sites. Responsibility for enforcing state minimum standards as defined by the CIWMB shall be administered by the EA in consultation as deemed appropriate with the Regional Water Quality Control Board or other oversight agency.

NOTE: Authority cited: Sections 40502, 43020, 43021 and 43030, Public Resources Code. Reference: Sections 40000–40002, 40508 and 43103, Public Resources Code.

HISTORY

1. New chapter 1, article 1 (sections 20005–20090) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20010. Statutory Mandate. (non–regulatory) [Reserved]

§ 20012. SWRCB—Reliance Upon CIWMB Requirements. (new)

(a) Where necessary to protect water quality, the Regional Water Quality Control Board (RWQCB) can implement, in coordination with the enforcement agency (EA) or, as appropriate, the California Integrated Waste Management Board (CIWMB), appropriate standards promulgated by the CIWMB in this subdivision, provided that the action does not duplicate or conflict with any action taken by the EA.

(b) Where necessary to protect water quality, the RWQCB can cite the standards promulgated by the CIWMB in this subdivision as evidence of a violation of standards promulgated by the SWRCB or of Waste Discharge Requirements (WDRs) in any ensuing enforcement proceeding, provided that the violation does not duplicate or conflict with any action by the EA and that such enforcement proceeding is based upon the authority of the RWQCB under Division 7 of the Water Code.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13226, 13227, 13263, 13267, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20014. CIWMB—Reliance Upon SWRCB Requirements. (new)

(a) Where necessary to protect aspects of the public health and safety and the environment, other than water quality, the EA may implement, in coordination with the RWQCB and the CIWMB, appropriate standards promulgated by the SWRCB in this subdivision provided that the action is not duplicative of or in conflict with any action taken by the RWQCB.

(b) Where necessary to protect aspects of the public health and safety and the environment, other than water quality, the EA may cite the standards promulgated by the SWRCB in this subdivision as criteria to cause a site to correct a violation of the standards promulgated by the CIWMB or of a Solid Waste Facility Permit (SWFP). The EA may also reference the aforementioned criteria as evidence of a violation of appropriate CIWMB promulgated standards or of a SWFP in any ensuing enforcement proceeding, provided that the violation is not duplicative of or in conflict with any action by the RWQCB and such enforcement proceeding is based upon the authority of the EA under Division 30 of the Public Resources Code.

NOTE: Authority cited: Section 43103, Public Resources Code. Reference: Sections 43101(d) and 43105, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20020. How to Use Combined Regulations. (non–regulatory) [Reserved]

§ 20030. CIWMB—Authority. (T14:§17200)

The regulations contained herein are promulgated pursuant to Public Resources Code (PRC) §§43020, 43020.1, 43021, 43030, 43101, 43103 and Health and Safety Code §4520. No provision in this Division shall be construed as a limitation or restriction upon the CIWMB's right to exercise discretion which is vested in it by law. Nor shall any provision be construed to limit or restrict counties and cities from promulgating enactments which are as strict as or stricter than the regulations contained in this Division. However, no city or county may promulgate enactments which are inconsistent with the provisions of this Division. Any reference in this chapter to an EA shall be deemed to mean the EA created pursuant to PRC §§43200 – 43219.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Section 11125, Government Code; and Sections 43020–43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20040. CIWMB—Compliance with Laws and Regulations. (T14:§17201)

Nothing in these standards shall be construed as relieving an owner, operator, or designer from the obligation of obtaining all required permits, licenses, or other clearances, and complying with all orders, laws, regulations, or other requirements of other approval, regulatory or enforcement agencies, such as, but not limited to the Department of Toxic Substances Control, local health entities, water and air quality control boards, local land use authorities, fire authorities, etc.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 40054, 40055, 43020, 43103 and 43021, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20050. CIWMB—Purpose, Intent. (T14:§17202–17203)

[*Note: This section will be amended upon the adoption of future regulations pertaining to tiers, transfer stations, operations, etc.*]

(a) The purpose of the regulations in Chapters 1, 2, and 3 is to promote the health, safety and welfare of the people of the State of California, and to protect the environment by establishing minimum standards for the handling and disposal of solid wastes at disposal sites.

(b) By adopting these standards, the CIWMB hereby sets forth performance standards for solid waste disposal sites which are of state concern, as required by PRC §43020 and §43021, and sets forth minimum substantive requirements for operators' submission of information concerning individual solid waste disposal sites.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 40000, 40001, 40002 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20060. CIWMB—Applicability of Federal Subtitle D Related Standards to Small Landfills. (T14: portions of §17258.1)

(a) MSWLF units that meet the conditions of 40 CFR 258.1(f)(1) and received waste after October 9, 1991 but stopped receiving waste before October 9, 1997, are exempt from all the requirements promulgated as a result of 40 CFR 257 and 258, except the final cover minimum standards specified in Section 21140 and all other applicable requirements of Chapters 3 and 4, of this subdivision. The final cover must be installed by October 9, 1998. Owners and operators of MSWLF units described in this paragraph that fail to complete cover installation by October 9, 1998 will be subject to all the requirements of this subdivision, unless otherwise specified.

(b) MSWLF units that receive 20 tons or less of municipal solid waste per day, based on an annual average, may be allowed alternative frequencies for daily cover requirements and landfill gas monitoring requirements subject to the criteria set forth in sections 20680 and 20919.5.

NOTE: Authority cited: Sections 40502, 40508, 43020, 43021 and 43030, Public Resources Code. Reference: Sections 40508 and 43103, Public Resources Code; and Title 40, Code of Federal Regulations, Sections 258.1, 258.21 and 258.23.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. New subsection (a) designator, new subsection (b) and amendment of NOTE filed 10–28–98 as an emergency; operative 10–28–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–25–99 or emergency language will be repealed by operation of law on the following day.
3. New subsection (a) designator, new subsection (b) and amendment of NOTE refiled 2–25–99 as an emergency; operative 2–25–99 (Register 99, No. 9). A Certificate of Compliance must be transmitted to OAL by 6–25–99 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 2–25–99 order transmitted to OAL 6–24–99 and filed 7–12–99 (Register 99, No. 29).

§ 20070. Combined CIWMB and SWRCB Federal Subtitle D Research, Development, and Demonstration Permits.

(a) Except as provided in paragraph (f) of this section, EA with concurrence by the CIWMB, and the RWQCB, may issue a research, development, and demonstration permit for a new MSWLF unit, existing MSWLF unit, or lateral expansion, for which the owner or operator proposes to utilize innovative and new methods which vary from either or both of the criteria listed in subsections (1) and (2) below, provided that the MSWLF unit has a leachate collection system designed and constructed to maintain less than a 30–cm depth of leachate on the liner:

(1) The run–on control systems in 40 CFR Section 258.26(a)(1), as implemented in Title 27, CCR; and

(2) The liquids restrictions in 40 CFR 258.28(a), as implemented in Title 27, CCR.

(b) The EA with concurrence by the CIWMB, and the RWQCB, may issue a research, development, and demonstration permit for a new MSWLF unit, existing MSWLF unit, or lateral expansion, for which the owner or operator proposes to utilize innovative and new methods which vary from the final cover criteria of 40 CFR 258.60(a)(1), (a)(2) and (b)(1), as implemented in Title 27, CCR, provided the MSWLF unit owner/operator demonstrates that the infiltration of liquid through the alternative cover system will not cause contamination of groundwater or surface water, or cause leachate depth on the liner to exceed 30–cm.

(c) Any permit issued under this section must include such terms and conditions at least as protective as the criteria for MSWLFs, as set forth in this Division, to assure protection of public health and safety and the environment. Such permits shall:

(1) Provide for the construction and operation of such facilities as necessary, for not longer than three years, unless renewed as provided in paragraph (e) of this section;

(2) Provide that the MSWLF unit must receive only those types and quantities of municipal solid waste and nonhazardous wastes which the EA, CIWMB, and the RWQCB, deem appropriate for the purposes of determining the efficacy and performance capabilities of the technology or process;

(3) Include such requirements as necessary to protect public health and safety and the environment, including such requirements as necessary for testing and providing information to the EA, CIWMB, and the RWQCB with respect to the operation of the facility;

(4) Require the owner or operator of a MSWLF unit permitted under this section to submit an annual report to the EA, CIWMB, and the RWQCB showing whether and to what extent the site is progressing in attaining project goals. The report shall also include a summary of all monitoring and testing results, as well as any other operating information specified in the permit and its supporting documents; and

(5) Require compliance with all MSWLF criteria, as set forth in this Division, except as permitted under this section.

(d) The EA, CIWMB, or the RWQCB may order an immediate termination of all operations at the facility allowed under this section or other corrective measures at any time the EA, CIWMB, or the RWQCB determines that the overall goals of the project are not being attained, including protection of public health and safety or the environment, pursuant to procedures set forth in this Division, Division 7 of Title 14, and Division 30 of the Public Resources Code.

(e) For the purposes of this section, a research, development, and demonstration permit shall mean the SWFP and WDRs issued pursuant to Chapter 4 of this Division, or if applicable, the approved final closure and postclosure maintenance plans required in accordance with Chapter 4 of this Division.

(f) Any permit issued under this section shall not exceed three years and each renewal of a permit shall not exceed three years. The total term for a permit for a project including renewals shall not exceed twelve years. A permit renewal under this section shall conform to the following requirements:

(1) The applicant shall provide a detailed assessment of the project showing the status with respect to achieving project goals, a list of problems and status with respect to problem resolutions, and any other requirements specific to the operation that the EA with concurrence by the CIWMB, and the RWQCB determine are necessary for permit renewal.

(2) The EA shall process the permit renewal in accordance with sections 21650 through 21665 of Chapter 4 of this Division. A permit issued under this section shall be renewed by amending the RFI or revising the SWFP, as applicable.

(3) The process for permit renewal for approved final closure and post-closure maintenance plans shall be in accordance with sections 21860 and 21890, if applicable, of Chapter 4 of this Division.

(4) For the purposes of this section, renewal shall apply solely to the research, development, and demonstration activities authorized under this section, and not the unrelated activities of the facility or site.

(g) Small MSWLFs:

(1) An owner or operator of a MSWLF unit operating under an exemption set forth in 40 CFR 258.1(f)(1) is not eligible for any variance from 40 CFR 258.26(a)(1) and 258.28(a) of the operating criteria in subpart C of 40 CFR, as implemented by Title 27, CCR, and

(2) An owner or operator of a MSWLF unit that disposes of 20 tons of municipal solid waste per day or less, based on an annual average, is not eligible for a variance from 40 CFR 258.60(b)(1), as implemented by Title 27, CCR, except in accordance with 40 CFR 258.60(b)(3), as implemented by Title 27, CCR.

(h) Any variances issued under this section shall not relieve the owner or operator from complying with all other applicable standards of this Division.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 40508, 43020 and 43021, Public Resources Code; and 40 CFR Section 258.4.

HISTORY

1. New section filed 9-29-2005; operative 9-29-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 39).

§ 20080. SWRCB—General Requirements. (C15: §2510)

(a) Scope—The regulations in this subdivision that are promulgated by the State Water Resources Control Board (SWRCB) pertain to water quality aspects of discharges of solid waste to land for treatment, storage, or disposal. The SWRCB-promulgated regulations in this subdivision establish waste and site classifications and waste management requirements for solid waste treatment, storage, or disposal in landfills, surface impoundments, waste piles, and land treatment units. Requirements in the SWRCB-promulgated portions of this subdivision:

(1) Minimum standards—are minimum standards for proper management of each waste category. Regional boards may impose more stringent requirements to accommodate regional and site-specific conditions;

(2) MSW Landfill Requirements—as they apply to MSW landfills, are superseded by any more stringent requirements in SWRCB Resolution No. 93-62 (section 2908, Title 23 of this code) or in the federal MSW regulations (40CFR258);

(3) Utilize Abbreviated Internal References—make reference only to requirements of the sections within this subdivision, unless otherwise stated. Under this internal reference convention: (A) any unenumerated paragraph reference in this division [*e.g.*, "¶(c)", *or* "¶(d)(2)(A-D)" (*i.e., subsections A through D, inclusive*)] is to be found in the same section as the referring subsection; and (B) any enumerated reference that does not explicitly identify a source outside this subdivision [*e.g.*, "§20200", "§20220(b)", *or* "Article 2, Subchapter 3, Chapter 3"] is to be found in this subdivision; and

(4) Contain Nonregulatory Notes and Examples—contain some non-regulatory language that is needed in a body of multi-agency regulations such as this in order to improve clarity and continuity. Such non-regulatory language is always italicized, is always set off from adjacent regulatory text by parentheses or brackets, serves an obviously explanatory function, and typically begins with either "*Note:*" or "*e.g.,*". In the SWRCB-promulgated sections of this subdivision, such italicized notes and examples are intended only to provide the reader with useful guidance, and do not constitute standards having regulatory effect.

(b) Engineered Alternatives Allowed—Unless otherwise specified, alternatives to construction or prescriptive standards contained in the SWRCB-promulgated regulations of this subdivision may be considered. Alternatives shall only be approved where the discharger demonstrates that:

(1) the construction or prescriptive standard is not feasible as provided in ¶(c); and

(2) there is a specific engineered alternative that:

(A) is consistent with the performance goal addressed by the particular construction or prescriptive standard; and

(B) affords equivalent protection against water quality impairment.

(c) Demonstration [for ¶(b)]—To establish that compliance with prescriptive standards in this subdivision is not feasible for the purposes of ¶(b), the discharger shall demonstrate that compliance with a prescriptive standard either:

(1) is unreasonably and unnecessarily burdensome and will cost substantially more than alternatives which meet the criteria in ¶(b); or

(2) is impractical and will not promote attainment of applicable performance standards. The RWQCB shall consider all relevant technical and economic factors including, but not limited to, present and projected costs of compliance, potential costs for remedial action in the event that waste or leachate is released to the environment, and the extent to which ground water resources could be affected.

(d) Existing & New Units—Units which were operating, or had received all permits necessary for construction and operation, on or before November 27, 1984, are designated as "existing" Units. This includes disposal sites classified under previous regulations and unclassified Units. Dischargers shall continue to operate existing Units under existing classifications and WDRs until those classifications and requirements are reviewed in accordance with §21720(c). Existing Units shall be closed and maintained after closure according to Subchapter 5, Chapter 3 of this subdivision (§20950 et seq.). All other Units (including expansions and reconstructions of existing Units initiated after November 27, 1984) are "new" Units. For discharges at new Units, the discharger shall comply with all applicable provisions of this division, as summarized in Table 3.1 [of Article 3, Subchapter 2, Chapter 3 of this subdivision] and in §20310(d). Pending review and reclassification, the following SWRCB- promulgated provisions of this division shall apply to existing Units:

(1) except with regard to Units which were closed, abandoned, or inactive on or before November 27, 1984 [such Units are addressed separately, under ¶(g)], all dischargers are required to be in compliance with the monitoring program requirements [in Article 1, Subchapter 3, Chapter 3, Subdivision 1 of this division (§20380 et seq.)];

(2) dischargers may be required to submit additional technical and monitoring reports to the RWQCB as determined to be necessary on a case-by-case basis.

[The next page is 603.]

(e) Reclassification—In reviewing WDRs for existing Units, the RWQCB shall consider the results of monitoring programs developed under ¶(d)(1) and technical and monitoring reports submitted under ¶(d)(2). Existing Units shall be reclassified according to the geologic siting criteria in Article 3, Subchapter 2, Chapter 3, Subdivision 1 of this division (§20240 et seq., as summarized in Table 3.1 of that article) and shall be required to comply with applicable SWRCB-promulgated construction standards in Article 4, Subchapter 2, Chapter 3, Subdivision 1 of this division [as summarized in §20310(d)] as feasible. To establish that retrofitting is not feasible, the discharger shall be required to make the demonstrations in ¶(b) and ¶(c).

(f) WDRs Implement Regulations—The RWQCB shall implement the SWRCB-promulgated regulations in this subtitle through the issuance of WDRs for Units.

(g) CAI Units—Persons responsible for discharges at Units which were closed, abandoned, or inactive on or before November 27, 1984 (CAI Units), may be required to develop and implement a detection monitoring program in accordance with Article 1, Subchapter 3, Chapter 3, Subdivision 1 of this division (§20380 et seq.). If water quality impairment is found, such persons may be required to develop and implement a corrective action program under that article.

(h) Mining Waste—Discharges of mining waste, as defined in §22470(a), shall be regulated only by the provisions of Article 1, Subchapter 1, Chapter 7, Subdivision 1 of this division (§22470 et seq.) and by such provisions of the other portions of this subdivision as are specifically referenced in that article.

(i) Combined SWRCB/CIWMB Solid Waste Landfill Regulations—The California Integrated Waste Management Board (CIWMB) and the SWRCB have promulgated the combined regulations contained in this division. For clarity, in moving the modified sections from their former location (in Chapter 15, Division 3, Title 23 of this code):

(1) Section Title Coding—the title of each SWRCB-promulgated section in the combined regulations begins with "SWRCB – " and ends with the section number (in parentheses) that section had in Title 23—*e.g., the notation "(C-15: §2540)" following the section title signifies that the subject section is derived from §2540, Chapter 15, Division 3, Title 23 of this code, as that chapter existed prior to July 18, 1997*; and

(2) Paragraph Subtitles—subtitles have been added at the beginning of many paragraphs, to assist the reader in quickly finding specific portions of the SWRCB's requirements that address a particular issue.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13142, 13260 and 13263, Water Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 20090. SWRCB—Exemptions. (C15: §2511)

The following activities shall be exempt from the SWRCB-promulgated provisions of this subdivision, so long as the activity meets, and continues to meet, all preconditions listed:

(a) Sewage—Discharges of domestic sewage or treated effluent which are regulated by WDRs issued pursuant to Chapter 9, Division 3, Title 23 of this code, or for which WDRs have been waived, and which are consistent with applicable water quality objectives, and treatment or storage facilities associated with municipal wastewater treatment plants, provided that residual sludges or solid waste from wastewater treatment facilities shall be discharged only in accordance with the applicable SWRCB-promulgated provisions of this division.

(b) Wastewater—Discharges of wastewater to land, including but not limited to evaporation ponds, percolation ponds, or subsurface leachfields if the following conditions are met:

(1) the applicable RWQCB has issued WDRs, reclamation requirements, or waived such issuance;

(2) the discharge is in compliance with the applicable water quality control plan; and

(3) the wastewater does not need to be managed according to Chapter 11, Division 4.5, Title 22 of this code as a hazardous waste.

(c) Underground Injection—Discharges of waste to wells by injection pursuant to the Underground Injection Control Program established by the United States Environmental Protection Agency (USEPA) under the Safe Drinking Water Act, [42 U.S. Code Section 300(h), see Title 40 of the Code of Federal Regulations, Parts 144 to 146, 40 CFR 144 to 146].

(d) RWQCB Cleanup Actions—Actions taken by or at the direction of public agencies to cleanup or abate conditions of pollution or nuisance resulting from unintentional or unauthorized releases of waste or pollutants to the environment; provided that wastes, pollutants, or contaminated materials removed from the immediate place of release shall be discharged according to the SWRCB-promulgated sections of Article 2, Subchapter 2, Chapter 3, Subdivision 1 of this division (§20200 et seq.); and further provided that remedial actions intended to contain such wastes at the place of release shall implement applicable SWRCB- promulgated provisions of this division to the extent feasible.

(e) Gas Condensate—Discharges of condensate from methane gas recovery operations at classified Units if the following conditions are met:

(1) condensate shall have no chemical additives which could adversely affect containment features, and shall consist only of water and liquid contaminants removed from gas recovered at a Unit;

(2) except as otherwise provided in §20200(d) regarding MSW landfills, condensate shall either be discharged to a different landfill that has a leachate collection and removal system and that is operated under WDRs issued by the RWQCB, or returned to the Unit(s) from which it came; and

(3) the discharger shall submit a report of waste discharge to the RWQCB, pursuant to Chapter 9, Division 3, Title 23 of this code, and shall discharge condensate only in compliance with WDRs.

(f) Soil Amendments—Use of nonhazardous decomposable waste as a soil amendment pursuant to applicable best management practices, provided that RWQCBs may issue waste discharge or reclamation requirements for such use.

(g) Drilling Waste—Discharges of drilling mud and cuttings from well-drilling operations, provided that such discharges are to on-site sumps and do not contain halogenated solvents, and further provided that, at the end of drilling operations, the discharger either:

(1) removes all wastes from the sump; or

(2) removes all free liquid from the sump and covers residual solid and semi-solid wastes, provided that representative sampling of the sump contents after liquid removal shows residual solid wastes to be nonhazardous. If the sump has appropriate containment features, it may be reused.

(h) Reuse—Recycling or other use of materials salvaged from waste, or produced by waste treatment, such as scrap metal, compost, and recycled chemicals, provided that discharges of residual wastes from recycling or treatment operations to land shall be according to applicable provisions of this division.

(i) Fully Enclosed Units—Waste treatment in fully enclosed facilities, such as tanks, or in concrete-lined facilities of limited areal extent, such as oil-water separators designed, constructed, and operated according to American Petroleum Institute specifications.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13142, 13260 and 13269, Water Code.

§ 20100. [Reserved by SWRCB.]

§ 20110. [Reserved by SWRCB.]

§ 20120. [Reserved by SWRCB.]

§ 20130. [Reserved by SWRCB.]

§ 20140. [Reserved by SWRCB.]

Chapter 2. Definitions

Article 1. Statutory Definitions

§ 20150. CIWMB—General. (T14:§17225, 17258.2)

Unless the context requires another construction, the definitions set forth in this chapter and in Division 30 of the Public Resources Code shall govern the construction of this Subdivision. No definitions which are present in Division 30 of the Public Resources Code are repeated herein. Consequently, those definitions should be read in conjunction with the ones set forth herein.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 43020, 43021, 43103 and 43128, Public Resources Code.

HISTORY

1. New chapter 2, article 1 (sections 20150–20163) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20163. SWRCB—Statutory Definitions. (C15: §2600)

Except as otherwise indicated in this article, definitions of terms used in the SWRCB–promulgated portions of this subdivision shall be those set forth in Division 7 (commencing with Section 13000) of the Water Code, or Chapter 6.5 of Division 20 of the Health and Safety Code (commencing with Section 25100).

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 13172, Water Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

Article 2. Specific Definitions

§ 20164. Combined CIWMB & SWRCB Technical Definitions. [CIWMB T14:§17225.1– 17225.74, §17258.2, 17761,18200.1, 18251, 18011, 18231, 18281 // SWRCB C15: §2601]

[*Note: This section contains the SWRCB's and the CIWMB's technical definitions, combined and listed in alphabetical order. Each agency is responsible for adopting its own definitions within this combined listing. Unless otherwise stated in a given regulation, it is the intent of the SWRCB and CIWMB that each agency's definitions function for the other agency (e.g., when the CIWMB uses a term adopted by the SWRCB, or vice versa, the term has the same meaning as defined by the agency that adopted the term).*]

"Abandoned site" (CIWMB) means a site where there is no responsible party.

"Abandoned Vehicles" (CIWMB) includes vehicles, with or without motor power, including cars, trucks, trailers, mobile homes, buses, etc., left on public or private property for an extended period of time and usually in an inoperable or hazardous condition.

"Acceptance for filing" (CIWMB) means the enforcement agency has determined that the application package is complete and correct and the specified permit action time frames contained in Chapter 4 of this subdivision commence.

"Active" (CIWMB) for CIWMB promulgated sections means the period when waste is being accepted for disposal at a disposal site.

"Active Face" (CIWMB) means the working surface of a landfill upon which solid wastes are deposited during the landfill operation, prior to the placement of cover material.

"Active life" or "operating life" (SWRCB) means the period during which wastes are being discharged to a waste management unit. The active life continues until final closure of the waste management unit has been initiated pursuant to this subdivision. For surface impoundments, the active life includes any time when the impoundment contains liquid, including waste and leachate.

"Affected medium" (SWRCB) means any natural medium that consists of or contains waters of the state (*e.g., ground water, surface water, or the unsaturated zone*) that has been affected by a release from a waste management unit.

"Agricultural Solid Wastes" (CIWMB) include wastes resulting from the production and processing of farm or agricultural products, including manures, prunings and crop residues wherever produced.

"Airport" (CIWMB) means public–use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

"Alternative Daily Cover" (CIWMB) see "cover material".

"Annular Seal" (CIWMB) the seal placed in the space between the casing in a well and the wall of the hole, or between two concentric strings of casing, or between casing and tubing.

"Approval Agency" (CIWMB) includes any agency with regulatory powers regarding solid waste generation, collection, transportation, processing or disposal and includes, but is not limited to the CIWMB, the Department of Toxic Substances Control, California Regional Water Quality Control Boards, local air districts, local enforcement agencies, local health entities and local land use authorities.

"Approved closure plan" (SWRCB) means the portion of a waste management unit's (Unit's) final closure and post–closure maintenance plan that describes all actions necessary to prepare the Unit for post–closure maintenance, and that has been approved by the RWQCB and by any other state and local agencies having purview over that plan.

"Aquifer" (SWRCB) means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

"Attitude" (SWRCB) means either the orientation in space of a geologic structural feature or the structural element position of a geologic bed, stratum, fracture, or surface relative to the horizontal.

"Background" (SWRCB) means the concentrations or measures of constituents or indicator parameters in water or soil that has not been affected by waste constituents or leachate from the waste management unit being monitored.

"Background Monitoring Point" (SWRCB) (as capitalized) means a well, device, or location specified in the waste discharge requirements at which monitoring for background water quality or background soil quality is conducted.

"Background plot" (SWRCB) means an area adjacent to a land treatment unit that can reasonably be expected to have the same, or similar soil conditions as were present at the land treatment unit prior to discharges of waste.

"Baling" (CIWMB) includes the process of compressing and binding solid wastes.

"Bench" (CIWMB) means a terrace or comparatively level platform breaking the continuity of a slope.

"Best management practice(s)" (SWRCB) means a practice, or combination of practices, that is the most effective and feasible means of controlling pollution generated by nonpoint sources for the attainment of water quality objectives.

"Bird hazard" (CIWMB) means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.

"Bulky Waste" (CIWMB) includes large items of solid waste such as appliances, furniture, large auto parts, trees, branches, stumps and other oversize wastes whose large size precludes or complicates their handling by normal collection, processing or disposal methods.

"CAI Units" (SWRCB) means waste management units that were closed, abandoned, or inactive prior to November 27, 1984.

"Capillary force(s)" (SWRCB) means the adhesive force between liquids and solids which, in the case of ground water hydrology, causes soil–pore liquid to move in response to differences in matric potential. This effect causes ground water to rise from a saturated zone into the unsaturated zone, thereby creating a capillary fringe.

"Cell" (CIWMB) means that portion of compacted solid wastes in a landfill that is enclosed by natural soil or cover material during a designated period.

"Certified Engineering Geologists" (CIWMB) means a registered geologist, certified by the State of California, pursuant to section 7842 of the Business and Professions Code.

"CIWMB" (CIWMB) means the California Integrated Waste Management Board, which is the lead agency for implementing the State municipal solid waste permit program that is deemed to be adequate by US EPA under regulations published pursuant to sections 2002 and 4005 of RCRA.

"Classified waste management unit" or "classified Unit" (SWRCB) means a waste management unit (as defined in this section) that has been classified by a Regional Water Quality Control Board according to the provisions of Article 3 Subchapter 2, Chapter 3 of this division (§20240 et seq.).

"Classified Unit" — see " 'classified waste management unit' or 'classified Unit' "

"CLGB" — see "concentration limit"

"Closed Site" (CIWMB) means a disposal site that has ceased accepting waste and was closed in accordance with applicable statutes, regulations, and local ordinances in effect at the time.

"Closure" (SWRCB) means the process during which a waste management unit (Unit), or portion thereof, that is no longer receiving waste, is undergoing all operations necessary to prepare the Unit (or portion thereof, as appropriate) for post-closure maintenance in accordance with an approved plan for closure, or partial final closure as appropriate.

"Closure Plan" (CIWMB) as used in this division refers to preliminary, final, and/or partial final closure plans as appropriate.

"COC" or "COCs" — see "Constituents Of Concern"

"Coefficient of variation" (SWRCB) means the standard deviation divided by the mean. It is a statistical measure of the dispersion of individual samples relative to the mean value of the samples.

"Collection" (CIWMB) means the act of collecting solid waste at the place of waste generation by an approved collection agent (public or private) and is distinguished from "removal."

"Collection Vehicle or Equipment" (CIWMB) includes any vehicle or equipment used in the collection of residential refuse or commercial solid wastes.

"Commercial Solid Wastes" (CIWMB) include all types of solid wastes generated by stores, offices and other commercial sources, excluding residences, and excluding industrial wastes.

"Concentration limit" (SWRCB) means the value for a constituent specified in the water quality protection standard under §20390 and §20400, including but not limited to values for concentration, temperature, pH, conductivity, and resistivity. The term can apply to a concentration that exceeds the constituent's background concentration [i.e., a "concentration limit greater than background (CLGB)" as described under §20400].

"Concentration limit greater than background (CLGB)" — see "concentration limit"

"Confined animal facility" (SWRCB) means any place where cattle, calves, sheep, swine, horses, mules, goats, fowl, or other domestic animals are corralled, penned, tethered, or otherwise enclosed or held and where feeding is by means other than grazing.

"Constituent" (SWRCB) means an element or compound which occurs in or is likely to be derived from waste discharged to the waste management unit.

"Constituent(s) of concern" or "COC(s)" (SWRCB) means any waste constituent(s), reaction product(s), and hazardous constituent(s) that is reasonably expected to be in or derived from waste contained in a waste management unit.

"Construction and Demolition Wastes" (CIWMB) include the waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures.

"Construction quality assurance" or "CQA" (SWRCB) means a planned system of activities that provides assurance that the facility, or component thereof, is constructed as specified in the approved design. As used in these regulations, the term includes "Construction quality control" or "CQC", a planned system of inspections that is used to directly monitor and control the quality of a construction project.

"Containment" (SWRCB) means the use of waste management unit characteristics or installed systems and structures to prevent or restrict the release of waste constituents, including waste constituents mobilized as a component of leachate or of landfill gas.

"Containment feature" (SWRCB) means any feature, whether natural or artificial, used to contain waste constituents, including waste constituents mobilized as a component of leachate or of landfill gas.

"Containment structure" (SWRCB) means an artificial feature designed and installed to contain waste constituents, including waste constituents mobilized as a component of leachate or of landfill gas.

"Contaminated materials" (SWRCB) means materials that contain waste constituents or leachate.

"Control chart" (SWRCB) means a graphical method for evaluating whether a process is or is not in a state of statistical control.

"Coverage" (SWRCB), when applied to financial assurance, means the amount of funds the discharger must make available for a known eventuality (*e.g., closure*) or potential eventuality (*e.g., corrective action*).

"Cover Material" (CIWMB) means soils/earthen materials or alternative materials used in covering compacted solid wastes in a disposal site. Cover material may serve as daily, intermediate or final cover. "Alternative Daily Cover" means cover material other than at least six inches of earthen material, placed on the surface of the active face at the end of each operating day to control vectors, fires, odors, blowing litter, and scavenging. "Daily Cover Material" includes that cover material placed on the entire surface of the active face at least at the end of each operating day in order to control vectors, fire, odors, blowing litter and scavenging. "Final Cover Material" means cover material that represents the permanently exposed final surface of a fill. "Intermediate Cover Material" means cover material placed on all fill surfaces where additional cells are not to be constructed for 180 days or more to control vectors, fires, odors, blowing litter, scavenging, and drainage. Intermediate cover does not include final cover as defined in this section.

"CQA" — see "construction quality assurance"

"CQC" — refer to "construction quality assurance"

"Critical Slope" (SWRCB) means a potential slip surface or slope on a site that has the lowest factor of safety.

"Cross-contamination" (SWRCB) means a condition created when a drill hole, boring, or improperly-constructed well forms a pathway for fluid movement between a saturated zone which contains pollutants and a formerly separated saturated zone containing uncontaminated ground water.

"Cutoff wall" (SWRCB) means a subsurface barrier to lateral fluid movement which extends from in-place natural geologic materials (which have the required hydraulic conductivity) to ground surface.

"Day" (CIWMB) means calendar day unless otherwise specified.

"Dead Animals" (CIWMB) include those animals whose carcasses or parts thereof require disposal.

"Decomposable waste" (SWRCB) means waste which, under suitable natural conditions, can be transformed through biological and chemical processes into compounds which do not impair the quality of waters of the state. Nevertheless, incomplete decomposition may result in some water quality degradation (*e.g., hardness, taste, odor, etc.*).

"Decomposition Gases" (CIWMB) include gases produced by chemical or microbial activity during the decomposition of solid waste.

"Dedicated" (SWRCB), when applied to a waste management unit (Unit), means the Unit is used exclusively for discharges of particular wastes.

"Dendritic" (SWRCB) when applied to a waste management unit's subdrain system, means that this system is arranged in a branching pattern.

"Designated waste" (SWRCB) has the same meaning as under California Water Code §13173.

"Dewatered sludge" (SWRCB) means residual semi-solid waste from which free liquid has been evaporated or otherwise removed.

"Discharger" (SWRCB) means any person who discharges waste which could affect the quality of waters of the state, and includes any person who owns a waste management unit (Unit) or who is responsible for the operation of a Unit. When referring to dischargers of hazardous waste, the terms "discharge" and "waste" in this definition have the same meaning as they would have under the definitions for these terms provided in section 66260.10 of Chapter 11 of Division 4.5 of Title 22, CCR, effective July 1, 1991.

"Discrete unit" (CIWMB) means any portion of the disposal area that can be individually monitored.

"Disposal Area" (CIWMB) means that portion of a disposal site which has received or is receiving solid wastes.

"Dump" (CIWMB) means a disposal site which has waste exposed to the elements, vectors and scavengers.

"Dynamic Conditions" (CIWMB) means under transitory loading conditions, such as during an earthquake.

"EA" (CIWMB) means enforcement agency as defined in PRC §40130.

"Earthquake Magnitude" (CIWMB) means the Richter scale of earthquake magnitude used to express the total energy of an earthquake.

"Electrical conductivity" (SWRCB) means the relative ability of water to conduct electrical current. It depends on the ion concentration of and can be used to approximate the total filterable residue (total dissolved solids) in the water.

"Environmental Control System" (CIWMB) means a system to prevent the release of waste constituents from the containment structures of sites. Environmental control system for the purpose of this definition does not include systems which primary function is to protect water quality.

"Excess exposure" (SWRCB) means that, for an organism exposed to a release from a waste management unit, the combined effect of all hazardous constituents in the organism's environment is such that the organism will suffer some measurable adverse effect on health or reproductive success, which effect is partly or wholly attributable to the release.

"Existing" (SWRCB), when describing a waste management unit (*e.g., "existing surface impoundment", or "existing Unit"*), means that the waste management unit in question was operating, or had received all permits necessary for construction and operation, on or before November 27, 1984, pursuant to §20080(d).

"Existing Footprint" (SWRCB) (as capitalized) means the area of land, at an MSW landfill, that is covered by waste as of the date that landfill became subject to the federal regulations of 40 CFR Part 258, pursuant to §258.1 of that part, as published in the Federal Register of October 1, 1993 (Volume 58, No. 189, pages 51546 and 51547). [*Note: see also definitions for "Federal Deadline" and "MSW landfill".*]

"Existing MSWLF unit" (CIWMB) (CIWMB usage) means any municipal solid waste landfill unit that is receiving solid waste as of the appropriate dates specified in Section 20060. Waste placement in existing units must be consistent with past operating practices or modified practices to ensure good management.

"External hydrogeologic forces" (SWRCB) means seasonal and other fluctuations in ground water levels, and any other hydraulic condition which could cause a change in the hydraulic stress on a containment structure.

"Facility" — see "waste management facility"

"Facility Boundary" (CIWMB) means the boundary surrounding the entire area on which solid waste facility activities occur and are permitted.

"Facility wastewater" (SWRCB) means all wastewater, from whatever source, produced at a confined animal facility.

"Factor of safety" (SWRCB) means the ratio of forces resisting slope or foundation failure over forces driving slope or foundation failure.

"Federal Deadline" (SWRCB) applies only to an MSW landfill, and means the compliance date applicable to that landfill or portion thereof pursuant to §258.1(e) of the federal MSW regulations (40CFR258), as revised in the Federal Register of October 1, 1993 (Volume 58, No. 189, pages 51546 and 51547). The term does not mean the date an MSW landfill must begin monitoring, in that all waste management units subject to these regulations have been required to monitor since the November 27, 1984 version of these regulations (see §20380 et seq.).

"Fill" (CIWMB) includes compacted solid waste and cover material.

"Flexible membrane liner (FML)" — see "geosynthetic(s)"

"Floodplain" (SWRCB) means the land area which is subject to flooding in any year from any source.

"FML" — see "geosynthetic(s)"

"Foundation Failure" (CIWMB) means the failure of a foundation, soil or rock that serves to support an imposed load, along a surface of weakness.

"Freeboard" (SWRCB) means the vertical distance between the lowest point along the top of a surface impoundment dike, berm, levee, or other similar feature and the surface of the liquid contained therein.

"Free liquid" (SWRCB) means liquid which readily separates from the solid portions of waste under ambient temperature and pressure. Free liquids are not present when a 100 milliliter representative sample of the waste can be completely retained in a standard 400 micron conical paint filter for 5 minutes without loss of any portion of the waste from the bottom of the filter (or an equivalent test approved by the Department of Toxic Substances Control).

"Garbage" (CIWMB) includes all kitchen and table food waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking or handling of food stuffs.

"Geologic materials" (SWRCB) means in-place naturally occurring surface and subsurface rock and soil.

"Geologist" (CIWMB) means a person who is engaged in professional geological work under the supervision of registered geologist or registered civil engineer, who is in responsible charge of the work, pursuant to section 7805 of the Business and Professions Code.

"Geomembrane" — see "geosynthetic(s)"

"Geosynthetic(s)" (SWRCB) (*n*)means flexible materials in planar form manufactured to meet specific engineering purposes. The term includes, but is not limited to: "geomembrane", an essentially impermeable membrane used as a barrier to waste solids and fluids, and synonymous with "synthetic liner" and "flexible membrane liner (FML)"; "geocomposite liner (GCL)," a manufactured material using geotextiles, geogrids, geonets, and/or geomembranes in laminated or composite form; "geotextile" (including "geonet"), any permeable textile used with foundation, soil, rock, earth, or any other geotechnical engineering-related material as an integral part of a constructed project, structure, or system.

"Ground acceleration" (SWRCB) means acceleration of earth particles caused by an earthquake.

"Ground rupture" (SWRCB) means disruption of the ground surface due to natural or man-made forces (e.g., faulting, landslides, subsidence).

"Ground water" (SWRCB) for the purpose of the SWRCB-promulgated requirements of this subtitle, means water below the land surface that is at or above atmospheric pressure.

"Grout curtain" (SWRCB) means a subsurface barrier to fluid movement, installed by injecting grout mixtures (such as cement, silicates, synthetic resins, etc.) to fill and seal fractures in rock.

"Hazardous constituent" (SWRCB) means a constituent identified in Appendix VIII to Chapter 11 of Division 4.5 of Title 22, CCR, or an element, chemical compound, or mixture of compounds which is a component of a waste or leachate and which has a physical or chemical property that causes the waste or leachate to be identified as a hazardous waste by the California Department of Toxic Substances Control.

"Hazardous waste" (SWRCB) means any waste which, under Article 1, Chapter 11, Division 4.5 (§66261.3 et seq.) of Title 22 of this code, is required to be managed according to Division 4.5 of Title 22 of this code.

"Head" or "hydraulic head" (SWRCB) means the pressure exerted by fluid on a given area. It is caused by the height of the fluid surface above the area.

"Holding facilities" (CIWMB) means sedimentation basins/ponds designed to control suspended solids entrained in surface run-off, prior to discharge.

"Holocene fault" (SWRCB) means a fault which is or has been active during the last 11,000 years.

"Household waste" (CIWMB) means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).

"Hydraulic conductivity" (SWRCB) means the ability of natural and artificial materials to transmit fluid. For water, including aqueous solutions, the term is expressed as a measure of the rate of flow (e.g., cubic centimeters per second) one can expect through a unit-area (e.g., one square centimeter) cross section of the material when the hydraulic gradient is unity (e.g., one centimeter of head loss per centimeter of travel through the material). The resulting numerical value is expressed in velocity units (e.g., centimeters per second).

"Illegal Site" (CIWMB) means a disposal site that is not permitted and not exempt from obtaining a permit and is not closed or excluded from the requirement to obtain a SWFP.

"Inactive" (SWRCB) means a temporary status of a waste management unit (Unit), following the initial receipt of waste, in which the Unit is no longer receiving waste.

"Inactive mining waste management unit" (SWRCB) means any area containing mining wastes which is located at a present or former mining or milling site, and where all mining operations and discharges of mining waste ended and have not been resumed for 5 years, or more.

"Inactive Site" (CIWMB) means a site that is temporarily idle for a specific period due to known circumstances and not part of the normal operation pattern contained in the solid waste facility permit.

"Incinerator" (CIWMB) includes any equipment used for the volume reduction or destruction of combustible wastes by burning, from which the exhaust gases pass through a flue.

"Incinerator Residue" (CIWMB) includes the solid materials remaining after reduction in an incinerator.

"Independent sample" (SWRCB) means an individual sample of a monitored medium, obtained from a given Monitoring Point, that:

(1) does not contain a parcel of the medium that has been previously sampled at that Monitoring Point sufficient to cause a measurable effect in the analytical results; and

(2) has not been otherwise affected differently than any other individual sample or group of samples with which it will be compared.

In applying No. 1, above, to ground water monitoring, the parcel of water of interest is the parcel of water that was in the well bore at the time of any previous sampling event.

"Indicator parameters" (SWRCB) means measurable physical or chemical characteristics of water or soil-pore moisture which are used to detect the presence of waste constituents in water or soil-pore moisture, or the effects of waste constituents on waters of the state.

"Industrial Wastes" (CIWMB) include all types of solid wastes and semi-solid wastes which result from industrial processes and manufacturing operations.

"Inert waste" (SWRCB) means the same as under §20230(a).

"Interim cover" (SWRCB) means the same as under §20705(a).

"Intermediate cover" (SWRCB), when used in an SWRCB-promulgated requirement applicable to a waste pile waste management unit, has a meaning identical to the CIWMB's definition of the term as it applies to landfills (*under the definition for "cover material" in this section*).

"Iso-settlement map" (SWRCB) means a contour map showing lines of equal settlement of a landfill over a period of time.

"Land application unit" (CIWMB) means an area where wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for agricultural purposes or for treatment and disposal.

"Landfill" (SWRCB) means a waste management unit at which waste is discharged in or on land for disposal. It does not include surface impoundment, waste pile, land treatment unit, injection well, or soil amendments. [*Note: see also the definition of "waste management unit" and §§20090(c&f).*]

"Landfill gas condensate" (SWRCB) means liquids which are removed from a gas control system at a landfill and which are produced by the condensation of landfill gas being conveyed by that system. The term ceases to apply to such liquid upon its being treated to the extent that it no longer contains any constituent of concern whose concentration exceeds the water quality objectives of ground water in the uppermost aquifer underlying the waste management unit. [*Note: see also §20200(d).*]

"Land treatment unit" (SWRCB) means a waste management unit (Unit) at which liquid and solid waste is discharged to, or incorporated into, soil for degradation, transformation, or immobilization within the treatment zone. Such Units are disposal Units if the waste will remain after closure. [*Note: see also the definition of "waste management unit" and §20090(f).*]

"Lateral expansion" (CIWMB) means a horizontal expansion beyond the disposal area boundary.

"Lateral expansion (beyond Existing Footprint)" (SWRCB) applies only to an existing MSW landfill that is subject to the federal regulations under 40 CFR 258, and means any portion of the landfill which—in map view—is contiguous with the landfill's Existing Footprint (as defined in this section) and which receives waste after the landfill's Federal Deadline (as defined in this section).

"Lateral expansion (of RWQCB-Permitted Area)" (SWRCB), for any new or existing waste management unit (Unit), means any increase—in map view—of the Unit's RWQCB-Permitted Area (as defined in this section)

"LCRS" — see "leachate collection and removal system"

"Leachate" (SWRCB) means any liquid formed by the drainage of liquids from waste or by the percolation or flow of liquid through waste. It includes any constituents extracted from the waste and dissolved or suspended in the fluid. The term ceases to apply to such liquid upon its being mingled with ground water outside the Unit's liner system. The term also ceases to apply to such liquid upon its being treated to the extent that it no longer contains any constituent of concern whose concentration exceeds the water quality objectives of ground water in the uppermost aquifer underlying the waste management unit.

"Leachate collection and removal system" or "LCRS" (SWRCB) means that portion of a waste management unit's containment system that is designed and constructed (pursuant to §20340) to collect all leachate that reaches it, and to convey such leachate to a designated collection area to minimize the buildup of leachate head on any underlying liner. The term does not include systems that are designed to collect ground water outside the Unit's liner, if any, including ground water that has been polluted by leachate.

"Liner" (SWRCB) means a continuous layer of natural or artificial material, or a continuous membrane of flexible artificial material, or a continuous composite layer consisting of a membrane of flexible artificial material directly overlying a layer of engineered natural material, which is installed beneath or on the sides of a waste management unit (Unit), and which acts as a barrier to both vertical or lateral fluid movement.

"Liner system" (SWRCB) means the entire sequence of individual liners, composite liners, and leachate collection system(s) which prevent or minimize releases from the waste management unit.

"Liquefaction" (SWRCB) means the process resulting from seismic or other shaking whereby solid granular material takes on the flowing characteristics of a liquid.

"Liquid waste" (SWRCB) means any waste materials which are not spadable.

"Litter" (CIWMB) means all solid waste which has been improperly discarded at any location or which has migrated by wind or equipment away from the unloading area of a solid waste facility, disposal site or operation. Litter includes, but is not limited to, convenience food, beverage, and other product packages or containers constructed of steel, aluminum, glass, paper, plastic, and other natural and synthetic materials, thrown or deposited on the lands and waters of the state, but not including the properly discarded waste of the primary processing of agriculture, mining, logging, sawmilling, or manufacturing.

"Local Air District" (CIWMB) means the local Air Quality Management District (AQMD) or the local Air Pollution Control District (APCD).

"Local Government" (CIWMB) is a local public entity which is a county, city, district, or any other special political subdivision, but is not the State.

"Manure" (SWRCB) means the accumulated moist animal excrement that does not undergo decomposition or drying as would occur on open grazing land or natural habitat. This definition shall include feces and urine which may be mixed with bedding materials, spilled feed, or soil.

"Maximum credible earthquake" (SWRCB), or "MCE" (SWRCB), means the maximum earthquake that appears capable of occurring under the presently known geologic framework. In determining the maximum credible earthquake, little regard is given to its probability of occurrence except that its likelihood of occurring is great enough to be of concern. The term describes an event that could be approached more frequently in one geologic environment than in another; therefore, the following factors have a bearing upon the derivation of the MCE for any given facility:

(a) the seismic history of the vicinity and of the geologic province;

(b) the length of the significant fault or faults which can affect the site within a radius of 62 miles (100 kilometers) of the facility boundary;

(c) the type(s) of faults involved;

(d) the tectonic and/or structural history; and

(e) the tectonic and/or structural pattern or regional setting (geologic framework); nevertheless

(f) the time factor shall not be a parameter.

"Maximum probable earthquake", or "MPE" (SWRCB), means the maximum earthquake that is likely to occur during a 100-year interval. The term describes a probable occurrence, rather than an assured event that will occur at a specific time; therefore, the following factors have a bearing upon the derivation of the MPE for a given facility:

(a) the regional seismicity, considering the known past seismic activity;

(b) the fault or faults within a 62 mile (100 kilometer) radius from the facility boundary that may be active within the 100 years following first acceptance of waste;

(c) the type(s) of faults considered;

(d) the seismic recurrence factor for the area described in ¶(b), above, and for any faults (when known) within that area; and

(e) the mathematic probability analysis (or statistical analysis) of seismic activity associated with the faults included in the area described under ¶(b), above, including a graphical plot of recurrence information.

Nevertheless, the postulated magnitude of the MPE is superseded by any more powerful seismic event that has occurred within historic time in the area described under ¶(b), above.

"Measurably significant" (SWRCB) means a change in the Monitoring Point data that, relative to the reference background value (or other approved reference value or distribution), is sufficient to indicate that a release has occurred, pursuant to the applicable data analysis method (including its corresponding trigger).

"Medical Waste" (CIWMB) means waste regulated pursuant to the Medical Waste Management Act, Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code.

"Mining waste" (SWRCB) means all waste materials (solid, semi-solid, and liquid) from the mining and processing of ores and minerals including soil, waste rock, and other forms of overburden as well as tailings, slag, and other processed mining wastes.

"Moisture-holding capacity" (SWRCB) means the amount of liquid which can be held against gravity by waste materials without generating free liquid.

"Monitoring parameter" (SWRCB) means one of the set of parameters specified in the waste discharge requirements for which monitoring is conducted. Monitoring parameters include physical parameters, waste constituents, reaction products, and hazardous constituents, that provide a reliable indication of a release from a waste management unit.

"Monitoring Point" (SWRCB) (as capitalized) means a well, device, or location specified in the waste discharge requirements at which monitoring is conducted and at which the water quality protection standard, under §20390, applies.

"Municipal solid waste," or "MSW" (SWRBC) has the same meaning as under 40 CFR, Part 258.

"MSW landfill" or "municipal solid waste landfill unit" (SWRCB) means any landfill that is subject to the federal regulations of 40CFR258, including any portion of a disposal site that is subject to those regulations. The term includes any landfill, other than a Class I landfill, that received municipal solid waste (MSW) at any time and that has received any solid waste since October 9, 1991; therefore, the term does not include any landfill that stopped receiving waste prior to that date.

"New Unit" (SWRCB), when applied to a waste management unit (Unit) or portion thereof, means that the Unit (or portion thereof) began operating, or had received all permits necessary for construction and operation, after November 27, 1984, pursuant to §20080(d).

"New MSWLF unit" (CIWMB) means any municipal solid waste landfill unit that has not received waste prior to the operative date of October 9, 1993, or prior to October 9, 1997 if the MSWLF unit meets the conditions of 40 CFR 258.1(f)(1).

"Nonhazardous solid waste" (SWRCB) has the same meaning as under §20220(a).

"Nuisance" (SWRCB) has the same meaning as under Water Code §13050(m).

"Nuisance" (CIWMB) for CIWMB-promulgated sections includes anything which is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property, and affects at the same time an entire community, neighborhood, household or any considerable number of persons although the extent of annoyance or damage inflicted upon an individual may be unequal and which occurs as a result of the storage, removal, transport, processing or disposal of solid waste.

"On-site" (CIWMB) means located within the permitted boundary.

"Open burning" (CIWMB) means the combustion of solid waste without:

(1) Control of combustion air to maintain adequate temperature for efficient combustion,

(2) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and

(3) Control of the emission of the combustion products.

"Operating" (CIWMB) means currently active or the period of site activity from the first receipt of waste until the final receipt of waste consistent with the normal pattern of operation in the solid waste facility permit.

"Operating" (SWRCB) — see "active life"

"Operating Area" (CIWMB) means that portion of a solid waste facility which is currently in use for the unloading, management or disposal of wastes.

"Operating life" (SWRCB) — see "active life" (SWRCB)

"Operator" (CIWMB) means the landowner or other person who through a lease, franchise agreement or other arrangement with the landowner becomes legally responsible to the State for including, but not limited to, the following requirements for a solid waste facility or disposal site:

(A) obtaining a solid waste facility permit;

(B) complying with all applicable federal, state and local requirements;

(C) the physical operation of the facility or site; and

(D) closing and maintaining the site during the postclosure maintenance period.

"Overpulling" (CIWMB) means excessive air intrusion into a disposal site during gas extraction to control the migration of landfill gas or to increase the production of landfill gas in an energy production system or flare.

"Partial Final Closure" (CIWMB) means the closure of discrete units of a site consistent with the approved closure and postclosure maintenance plan.

"Peak stream flow" (SWRCB) means the maximum expected flow of surface water at a waste management facility from a tributary watershed for a given recurrence interval.

"Peer–reviewed" (CIWMB) means published and independently reviewed by other experts within the same academic field.

"Perched ground water" (SWRCB) means a body of unconfined ground water separated from the zone of saturation by a portion of the unsaturated zone. Such perched water can be either permanent or ephemeral.

"Permeability" (SWRCB) means the ability of natural and artificial materials to transmit fluid.

"Physical parameter" (SWRCB) means any measurable physical characteristic of a substance including, but not limited to, temperature, electrical conductivity, pH, and specific gravity.

"Point of Compliance" (SWRCB) (as capitalized) means a vertical surface located at the hydraulically downgradient limit of a waste management unit (Unit) and that extends through the uppermost aquifer underlying the Unit.

"Post–closure maintenance" (SWRCB) means all activities undertaken at a closed waste management unit to maintain the integrity of containment features and to monitor compliance with applicable performance standards.

"Post–closure maintenance period" (SWRCB) means the period after closure of a waste management unit (Unit) during which the waste in the Unit could have an adverse effect on the quality of the waters of the state.

"Postclosure maintenance plan" (CIWMB) as used in this division refers to preliminary, final, and/or partial final postclosure maintenance plans as appropriate.

"Premises" (CIWMB) includes a tract or parcel of land with or without habitable buildings or appurtenant structures.

"Principal Gases" (CIWMB) means the organic or inorganic constituents of landfill gas, greater than one percent by volume, that typically include carbon dioxide, methane, oxygen, and nitrogen.

"Private Access" (CIWMB) means that public access and disposal are not allowed.

"Probable maximum precipitation" (SWRCB) means the estimated amount of precipitation for a given duration, drainage area, and time of year, which approaches and approximates the maximum that is physically possible within the limits of contemporary hydrometeorological knowledge and techniques. The term describes a precipitation event that has virtually no risk of being exceeded.

"Professional Land Surveyor" (CIWMB) means a land surveyor licensed by the State of California pursuant to section 8747 of the Business and Professions Code.

"Putrescible Wastes" (CIWMB) include wastes that are capable of being decomposed by micro–organisms with sufficient rapidity as to cause nuisances because of odors, gases or other offensive conditions.

"P–value" (SWRCB) means the smallest significance level for which the null hypothesis would be rejected, based on the data that was actually observed.

"Rapid geologic change" (SWRCB) means alteration of the ground surface through such actions as landslides, subsidence, liquefaction, and faulting.

"R Chart (range chart)" (SWRCB) means a control chart for evaluating the variability within a process in terms of the subgroup range R.

"Reconstruction" (SWRCB) means modification to an existing waste management unit (Unit) which entails costs amounting to 50 percent or more of the initial cost of the Unit.

"Refuse" (CIWMB) includes garbage and rubbish.

"Regional Water Quality Control Board" — see "RWQCB"

"Registered Civil Engineer" (CIWMB) means a civil engineer registered by the State of California, pursuant to section 6762 of the Business and Professions Code.

"Registered Geologist" (CIWMB) means a geologist registered by the State of California, pursuant to section 7842 of the Business and Professions Code.

"Regulated Hazardous Waste" (CIWMB) means a hazardous waste, as defined in §66260.10 of Division 4.5 of Title 22 of this code.

"Relative compaction" (SWRCB) means the degree of compaction achieved, as a percentage of the laboratory compaction, in accordance with accepted civil engineering practices.

"Removal" (CIWMB) means the act of taking solid wastes from the place of waste generation either by an approved collection agent or by a person in control of the premises.

"Removal Frequency" (CIWMB) means frequency of removal of solid wastes from the place of waste generation either by an approved collection agency or by the owner of the waste, or frequency of removal of recyclables at facilities which separate recyclables from the waste stream.

"Rubbish" (CIWMB) includes non–putrescible solid wastes such as ashes, paper, cardboard, tin cans, wood, glass, bedding, crockery, plastics, rubber by–products or litter.

"Run–off" (SWRCB) means any precipitation, leachate, or other liquid that drains from any part of a waste management unit (Unit).

"Run–on" (SWRCB) means any precipitation or other liquid that drains onto any part of a waste management unit.

"RWQCB" or "Regional Water Quality Control Board" (SWRCB) has the same meaning as does the latter term, as described under Division 7 of the California Water Code.

"RWQCB–Permitted Area" (SWRCB) (as capitalized) means the portion of land designated in WDRs for the discharge of waste at a waste management unit.

"Salvaging" (CIWMB) means the controlled removal of waste material for utilization.

"Saturated zone" (SWRCB) means an underground zone in which all openings in and between natural geologic materials are filled with water.

"Scavenging" (CIWMB) means the uncontrolled and/or unauthorized removal of solid waste materials, or recyclable material at a solid waste facility.

"Semi–solid waste" (SWRCB) means waste containing less than 50 percent solids.

"Sensitive biological receptor of concern" (SWRCB) means a member of any species of organism whose members are likely to be exposed to a release from a waste management unit and experience some measurable adverse effect as a result of that exposure.

"Septic Tank Pumpings" (CIWMB) include sludge and wastewater removed from septic tanks.

"Shredding" (CIWMB) includes a process of reducing the particle size of solid wastes through use of grinding, shredding, milling or rasping machines. Shredding for the purposes of this Division does not apply to shredding of waste tires.

"Site-Specific" (CIWMB) means specific to the local site.

"Slope Failure" (SWRCB) means the downward and outward movement of ground slopes (e.g., natural rock, soils, artificial fills, or continuations of these materials).

"Sludge" (SWRCB) means residual solids and semi-solids from the treatment of water, wastewater, and other liquids. It does not include liquid effluent discharged from such treatment processes.

"Soil Engineer" (CIWMB) is synonymous with geotechnical engineer; means a registered civil engineer that is qualified to use the title of "soil engineer," pursuant to California Code of Regulations, Title 16, section 426.50.

"Soil-pore liquid" (SWRCB) means the liquid contained in openings between particles of soil in the unsaturated zone.

"Solid Waste Management" (CIWMB) includes a planned program for effectively controlling the generation, storage, collection, transportation, processing and reuse, conversion or disposal of solid wastes in a safe, sanitary, aesthetically acceptable, environmentally sound and economical manner. It includes all administrative, financial, environmental, legal and planning functions as well as the operational aspects of solid waste handling, disposal and resource recovery systems necessary to achieve established objectives.

"Sorbent" (SWRCB) means a substance which takes up and holds a liquid either by absorption or adsorption.

"Special Waste" (CIWMB) means "special waste" as defined in Title 22.

"State Minimum Standards" (CIWMB) means the following sections of this Subdivision for the purposes of implementing Public Resources Code Section 44104: 20510 to 20701, 20710 to 20937, 21100 to 21200, 21430 and 21600.

"State Water Resources Control Board" — see "SWRCB"

"Static Conditions" (SWRCB) means under conditions of no external motions or forces, such as those of earthquakes.

"Statistically significant" (SWRCB) means a statistical test has a p-value that is small enough for the null hypothesis to be rejected.

"Storage" (SWRCB) means the holding of waste or recyclable materials for a temporary period, at the end of which the materials either is treated or is discharged elsewhere.

"Store" (CIWMB) means stockpile, accumulate for later use or discard. [*Note: this standard does not apply to waste tires.*]

"Storm" (SWRCB) means the maximum precipitation for a given duration that is expected during the given recurrence interval [*e.g., a 24-hour (duration) 100 year (recurrence interval) storm*].

"Surface impoundment" (SWRCB) means a waste management unit which is a natural topographic depression, excavation, or diked area, which is designed to contain liquid wastes or wastes containing free liquids, and which is not an injection well.

"SWRCB" (SWRCB) means the State Water Resources Control Board, as described under Division 7 of the Water Code.

"Synthetic liner" — see "geosynthetic(s)"

"Tailings pond" (SWRCB) means an excavated or diked area which is intended to contain liquid and solid wastes from mining and milling operations.

"Trace Gases" (CIWMB) means all other organic or inorganic compounds or elements, measured at less than one percent by volume, found together with the principal gases in landfill gas, and may include vinyl chloride, benzene, hydrogen sulfide, carbon monoxide, hydrogen, mercury, etc.

"Transmissivity" (SWRCB) means the rate at which water of the prevailing kinematic viscosity is transmitted through a unit width of the aquifer under a unit hydraulic gradient.

"Treatment" (SWRCB) means any method, technique, or process designed to change the physical, chemical, or biological characteristics of waste so as to render it less harmful to the quality of the waters of the state, safer to handle, or easier to contain or manage. The term includes use of waste as a fuel, nutrient, or soil amendment.

"Treatment zone" (SWRCB) means a soil area of the unsaturated zone of a land treatment unit within which constituents of concern are degraded, transformed, or immobilized.

"Underlying ground water" (SWRCB), for the purposes of waste management unit siting criteria, includes water which rises above the zone of saturation due to capillary forces.

"Unit" — see "waste management unit"

"Unsaturated zone" (SWRCB) means the zone between the ground surface and the regional water table or, in cases where the uppermost aquifer is confined, the zone between the ground surface and the top of the saturated portion of the aquifer's confining layer.

"Unstable Areas" (CIWMB) means locations susceptible to natural or human-induced events or forces which are capable of rupturing the site containment structure.

"Uppermost aquifer" (SWRCB) means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer.

"Vector" (CIWMB) includes any insect or other arthropod, rodent, or other animal capable of transmitting the causative agents of human disease, or disrupting the normal enjoyment of life by adversely affecting the public health and well being.

"Waste constituent" (SWRCB) means a constituent that is reasonably expected to be in or derived from waste contained in a waste management unit.

"Waste management facility" or "facility" (SWRCB) means the entire parcel of property at which waste discharge operations are conducted. Such a facility may include one or more waste management units.

"Waste management unit" or "Unit" (SWRCB) (the latter capitalized or in quotes at the beginning of a sentence) means an area of land, or a portion of a waste management facility, at which waste is discharged. The term includes containment features and ancillary features for precipitation and drainage control and for monitoring.

"Waste pile" (SWRCB) means a waste management unit (Unit) at which only noncontainerized, bulk, dry solid waste is discharged and piled for treatment or storage on an engineered liner system that prevents the waste from contacting the underlying land surface. The term does not include a Unit of similar construction which is used for waste disposal (such a Unit would be a landfill).

"Water quality impairment" (SWRCB) means degradation of the existing quality of a body of surface or ground water resulting from a release of waste constituents, waste-derived hazardous constituents, or reaction products, including but not limited to any incomplete decomposition product which could cause nuisance by odor.

"Water Standard" (SWRCB) (as capitalized) means the water quality protection standard under §20390.

"WDRs" (SWRCB) means waste discharge requirements.

"X Bar chart" (SWRCB) means a control chart for evaluating the process level or subgroup differences in terms of the subgroup average.

"Zone of saturation" (SWRCB) means the subsurface zone which extends downward from the base of the unsaturated zone in which the interstices are filled with water under pressure that is equal to or greater than atmospheric pressure. Although the zone can contain gas-filled interstices (in which the gas pressure exceeds atmospheric pressure) or interstices filled with fluids other than water, it is still considered saturated.

NOTE: Authority cited: Section 1058, Water Code; and Section 40502 Public Resources Code. Reference: Section 13172, Water Code; Sections 40000, 40001, 40002, 43103 and 43105, Public Resources Code, and Title 40, CFR 258.2.

HISTORY

1. New article 2 (section 20164) and section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).
2. Change without regulatory effect amending definition of "State Minimum Standards" filed 3-8-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 11).
3. Amendment of definition of "Discrete unit" and new definitions of "Closure plan" and "Postclosure maintenance plan" filed 2-25-2003; operative 2-25-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 9).

Chapter 3. Criteria for All Waste Management Units, Facilities, and Disposal Sites

Subchapter 1. General

Article 1. CIWMB—General

§ 20180. CIWMB—Owner and Operator. (T14:§17602)

Responsibility for compliance with the standards in this chapter shall rest with both the owner and the operator. If specifically designated, the operator is considered to have prime responsibility for compliance; however, this does not relieve the owner of the duty to take all reasonable steps to assure compliance with these standards and any assigned conditions.

NOTE: Authority cited: Sections 40502, 43020, 43021 and 43030, Public Resources Code. Reference: Sections 40000–40002, 40508 and 43103, Public Resources Code.

HISTORY

1. New chapter 3, subchapter 1, article 1 (section 20180) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20182. CIWMB—Change of Ownership. (T14:§17603)

When the title to a disposal site is transferred to another person, the new owner shall be notified by the previous owner of the existence of these standards and of the conditions assigned to assure compliance.

NOTE: Authority cited: Sections 40502, 43020, 43021 and 43030, Public Resources Code. Reference: Sections 40000–40002, 40508 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

Subchapter 2. Siting and Design

Article 1. [Reserved by SWRCB]

Article 2. SWRCB—Waste Classification and Management

§ 20200. SWRCB—Applicability and Classification Criteria. (C15: §2520)

(a) Concept—This article contains a waste classification system which applies to solid wastes that cannot be discharged directly or indirectly to waters of the state and which therefore must be discharged to waste management units (Units) for treatment, storage, or disposal in accordance with the requirements of this division. Wastes which can be discharged directly or indirectly (*e.g., by percolation*) to waters of the state under effluent or concentration limits that implement applicable water quality control plans (*e.g., municipal or industrial effluent or process wastewater*) are not subject to the SWRCB–promulgated provisions of this division. This waste classification system shall provide the basis for determining which wastes may be discharged at each class of Unit. Waste classifications are based on an assessment of the potential risk of water quality degradation associated with each category of waste.

(1) The waste classifications in this article shall determine where the waste can be discharged unless the waste does not consist of or contain municipal solid waste (MSW) and the discharger establishes to the satisfaction of the RWQCB that a particular waste constituent or combination of constituents presents a lower risk of water quality degradation than indicated by classification according to this article.

(2) Discharges of wastes identified in §20210 or §20220 of this article shall be permitted only at Units which have been approved and classified by the RWQCB in accordance with the criteria established in Article 3 of this subchapter, and for which WDRs have been prescribed or waived pursuant to Article 4, Subchapter 3, Chapter 4 of this subdivision (§21710 et seq.). Table 2.1 (of this article) presents a summary of discharge options for each waste category.

(b) Dedicated Units/Cells For Certain Wastes—The following wastes shall be discharged only at dedicated Units [or dedicated landfill cells (*e.g., ash monofill cell*)] which are designed and constructed to contain such wastes:

(1) wastes which cause corrosion or decay, or otherwise reduce or impair the integrity of containment structures;

(2) wastes which, if mixed or commingled with other wastes can produce a violent reaction (including heat, pressure, fire or explosion), can produce toxic byproducts, or can produce any reaction product(s) which:

(A) requires a higher level of containment;

(B) is a restricted waste; or

(C) impairs the integrity of containment structures.

(c) Waste Characterization—Dischargers shall be responsible for accurate characterization of wastes, including determinations of whether or not wastes will be compatible with containment features and other wastes at a Unit under ¶(b), and whether or not wastes are required to be managed as hazardous wastes under Chapter 11 of Division 4.5 of Title 22 of this code.

(d) Management of Liquids at Landfills and Waste Piles—The following requirements apply to discharges of liquids at Class II waste piles and at Class II and Class III landfills, except as otherwise required for MSW landfills by more–stringent state and federal requirements under SWRCB Resolution No. 93–62 section 2908 of Title 23 of this Code (see 40CFR258.28) [*Note: see also definitions of "leachate" and "landfill gas condensate" in §20164*]:

(1) [Reserved.];

(2) wastes containing free liquids shall not be discharged to a Class II waste pile. Any waste that contains liquid in excess of the moisture–holding capacity of the waste in the Class II landfill, or which contains liquid in excess of the moisture–holding capacity as a result of waste management operations, compaction, or settlement shall only be discharged to a surface impoundment or to another Unit with containment features equivalent to a surface impoundment; and

(3) liquids or semi–solid waste (i.e., waste containing less than 50 percent solids, by weight), other than dewatered sewage or water treatment sludge as described in §20220(c), shall not be discharged to Class III landfills. Exceptions may be granted by the RWQCB if the discharger can demonstrate that such discharge will not exceed the moisture–holding capacity of the landfill, either initially or as a result of waste management operations, compaction, or settlement, so long as such discharge is not otherwise prohibited by applicable state or federal requirements.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 13172, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New subchapter 2, article 2 (section 20200–20230) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20210. SWRCB—Designated Waste. (C15: §2522)

Designated waste, as defined in California Water Code §13173, shall be discharged only at Class I waste management units (for information regarding Class I Units, see Chapter 15, Division 3, Title 23 of this code) or at Class II waste management units which comply with the applicable SWRCB–promulgated provisions of this subdivision and have been approved by the RWQCB for containment of the particular kind of waste to be discharged. Decomposable wastes in this category can be discharged to Class I or II land treatment units.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 13172, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section and Table 2.1 filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

TABLE 2.1 SUMMARY OF WASTE MANAGEMENT STRATEGIES FOR DISCHARGES OF WASTE TO LAND[1]

Waste Category[2,3]	Waste Management Strategy	Unit Class	Unit Type	Primary Containment[4]	Siting and Geologic Criteria[5]
Liquid Designated (including undewatered sludge)	Full Containment	II	Surface Impoundment	Double Liners[7,8]	(a) Natural features capable of containing waste and leachate may satisfy primary containment requirements.
Solid Designated	Full Containment	II[6]	Landfill	Single Liner[9,11]	(b) May be located in most areas except high risk areas.
MSW	Full Containment	II[6]	Landfill	Single Composite Liner	
Nonhazardous Solid Waste (including dewatered sludge and acceptable incinerator ash)	Protect Beneficial Uses	III[6]	Landfill	None[12]	(a) Consideration of factors listed in §20260(b)[12] (b) May be located in most areas except high risk areas.
MSW	Full Containment	III[6]	Landfill	Single Composite Liner	

1 See §20080 for applicability to existing facilities.
2 Waste in any category may be discharged at Units with higher levels of containment ability.
3 Wastes suitable for land treatment in any category may be discharged at land treatment facilities.
4 See Article 4, Subchapter 3, Chapter 3 of this subdivision.
5 See Article 3, Subchapter 3, Chapter 3 of this subdivision.
6 Certain hazardous wastes may be discharged at Class II or Class III Units *(e.g., asbestos waste going to a Class III landfill)*, see §§20200(a)(1) & 20210(a)(2).
7 Leachate collection and removal system (LCRS) required.
8 Single liner may be acceptable, see Table 4.1.
9 Suitable natural features may satisfy requirements for outer liner where double liners are needed. Single replaceable clay liner (no LCRS) also acceptable.
10 Suitable natural features may satisfy primary containment requirement.
11 LCRS required as appropriate.
12 Units at sites not meeting siting and geologic criteria must have a single clay liner and LCRS.

§ 20220. SWRCB—Nonhazardous Solid Waste. (C15: §2523)

(a) Definition—Nonhazardous solid waste means all putrescible and nonputrescible solid, semi-solid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes and other discarded waste (whether of solid or semi-solid consistency); provided that such wastes do not contain wastes which must be managed as hazardous wastes, or wastes which contain soluble pollutants in concentrations which exceed applicable water quality objectives, or could cause degradation of waters of the state (i.e., designated waste).

(b) Units That Receive—Except as provided in §20200(d) (for liquids), nonhazardous solid waste may be discharged at any classified landfill which is authorized to accept such waste, provided that:

(1) the discharger shall demonstrate that codisposal of nonhazardous solid waste with other waste shall not create conditions which could impair the integrity of containment features and shall not render designated waste hazardous (*e.g., by mobilizing hazardous constituents*); and

(2) the discharger shall ensure, to the maximum extent feasible, that the Unit receives only those wastes that are approved for being discharged at that Unit. [*Note: see also CIWMB §20870*]

(c) Dewatered Sludge—Dewatered sewage or water treatment sludge may be discharged at a Class III landfill under the following conditions, unless DTSC determines that the waste must be managed as hazardous waste:

(1) the landfill is equipped with a leachate collection and removal system (LCRS);

(2) the sludge contains at least 20 percent solids (by weight) if primary sludge, or at least 15 percent solids if secondary sludge, mixtures of primary and secondary sludges, or water treatment sludge; and

(3) a minimum solids-to-liquid ratio of 5:1 by weight shall be maintained to ensure that the codisposal will not exceed the initial moisture-holding capacity of the nonhazardous solid waste. The actual ratio required by the RWQCB shall be based on site-specific conditions.

(d) Ash—Incinerator ash may be discharged at a Class III landfill unless DTSC determines that the waste must be managed as hazardous waste.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 13172, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 20230. SWRCB—Inert Waste. (C15: §2524)

(a) Defined—Inert waste is that subset of solid waste that does not contain hazardous waste or soluble pollutants at concentrations in excess of applicable water quality objectives, and does not contain significant quantities of decomposable waste.

(b) Units That Accept—Inert wastes do not need to be discharged at classified Units.

(c) WDRs Optional—The RWQCB can prescribe individual or general WDRs for discharges of inert wastes.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 13172, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

Article 3. Waste Management Unit, Facility, or Disposal Site Classification and Siting

§ 20240. SWRCB—Classification and Siting Criteria. (C15: §2530)

(a) Units and Facilities—Waste management units (Units) shall be classified according to their ability to contain wastes. Containment shall be determined by geology, hydrology, topography, climatology, and other factors relating to the ability of the Unit to protect water quality. A waste management facility can consist of several Units each with a different classification. Classification of Units shall be based on the criteria contained in this article, on field inspections by RWQCB and SWRCB staffs, and on other pertinent information. Information used to classify Units shall be submitted according to the provisions of Article 4, Subchapter 3, Chapter 4 of this subdivision (§21710 et seq.). Owners or operators of classified Units shall comply with waste discharge requirements (WDRs) adopted by the RWQCB.

(b) Reclassification—Existing Units shall be reclassified according to applicable criteria in this article, provided that such Units:

(1) comply with siting criteria for each category of existing Units in §20250 and §20260, and summarized in Table 3.1 of this article; and

(2) are operating in compliance with §20080(d).

(c) Five-Foot Separation—All new landfills, waste piles, and surface impoundments shall be sited, designed, constructed, and operated to ensure that wastes will be a minimum of five feet (5 ft.) above the highest anticipated elevation of underlying ground water. Existing landfills, waste piles, and surface impoundments shall be operated to ensure that wastes will be a minimum of five feet (5 ft.) above the highest anticipated elevation of underlying ground water. For new and existing land treatment units, the base of the treatment zone shall be a minimum of five feet (5 ft.) above the highest anticipated elevation of underlying ground water and dischargers shall not be entitled to exemption under §20080(b).

(d) Unit Foundation—All engineered structures (including, but not limited to, containment structures) constituting any portion of a Unit shall have a foundation or base capable of providing support for the structures, and capable of withstanding hydraulic pressure gradients to prevent failure due to settlement, compression, or uplift and all effects of ground motions resulting from at least the maximum probable earthquake [for Class III Units (see §20370)] or the maximum credible earthquake [for Class II Units (see §20370)], as certified by a registered civil engineer or certified engineering geologist. [*Note: see also §21750(f)(5).*]

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13360, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New article 3 (sections 20240–20270) and section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 20250. SWRCB—Class II: Waste Management Units for Designated Waste. (C15: §2532)

(a) General—Class II waste management units (Class II Units) shall be located where site characteristics and containment structures isolate waste from waters of the state. The classification criteria in this section shall be used for reclassification of existing Units at disposal sites approved as Class II-1 under previous versions of these SWRCB regulations, and for existing Units used for treatment or for storage, whether or not classified, provided that no hazardous wastes other than those which DTSC has determined need not be discharged as a hazardous waste) have been discharged at such Units (including discharge at any expansion of such Units).

(b) Geologic Setting.

(1) New and existing Class II landfills or waste piles shall be immediately underlain by natural geologic materials which have a hydraulic conductivity of not more than $1x10^{-6}$ cm/sec (i.e., 1 foot/year) and which are of sufficient thickness to prevent vertical movement of fluid, including waste and leachate, from Units to waters of the state for as long as wastes in such units pose a threat to water quality. Class II units shall not be located where areas of primary (porous) or secondary (rock opening) hydraulic conductivity greater than $1x10^{-6}$ cm/sec (i.e., 1 foot/year) could impair the competence of natural geologic materials to act as a barrier to vertical fluid movement.

(2) Natural or artificial barriers shall be used to prevent lateral movement of fluid, including waste and leachate.

(3) A liner system which conforms to the requirements of Article 4 of this subchapter with a hydraulic conductivity of not more than $1x10^{-6}$ cm/

sec (i.e., 1 foot/year) shall be used for landfills and waste piles when natural geologic materials do not satisfy the requirements in ¶(b)(1).

(4) Class II surface impoundments are not required to comply with the requirements of ¶(b)(1), but shall have a liner system designed in accordance with the applicable SWRCB- promulgated provisions of Article 4 of this subchapter (§20310 et seq.). The RWQCB can allow Class II surface impoundments which are designed and constructed with a double liner system in accordance with that article to use natural geologic materials which comply with ¶(b)(1) for the outer liner.

(5) Land treatment units (LTUs) are not required to comply with the requirements of ¶(b). Dischargers who treat or dispose of wastes in LTUs shall demonstrate, prior to application of the waste, that waste can be completely degraded, transformed, or immobilized in the treatment zone. To demonstrate this, prior to the application of waste, the discharger shall operate a test plot for a sufficient period to give the RWQCB a reasonable indication that degradation, transformation, or immobilization will take place in the treatment zone. During the full-scale operation of the LTU, soil and soil-pore liquid samples shall be taken within the treatment zone to verify that complete degradation, transformation, or immobilization is taking place. The RWQCB shall specify in WDRs the elements of the land treatment program including the dimensions of the treatment zone. The maximum depth of the treatment zone shall not exceed 5 feet from the initial soil surface.

(c) Flooding—New and existing Class II Units shall be designed, constructed, operated, and maintained to prevent inundation or washout due to floods with a 100-year return period. MSW landfills are also subject to any more-stringent flood plain and wetland siting requirements referenced in SWRCB Resolution No. 93-62 (i.e., see §258.11 and §258.12 of 40CFR258).

(d) Ground Rupture—New Class II Units, other than LTUs and expansions of existing Class II units, shall have a 200-foot setback from any known Holocene fault. Other units (that are subject to this section) can be located within 200 feet of a known Holocene fault, provided the RWQCB finds that the Unit's containment structures are capable of withstanding ground accelerations associated with the maximum credible earthquake.

(e) Rapid Geologic Change—New and existing Class II Units can be located within areas of potential rapid geologic change only if the RWQCB finds that the Unit's containment structures are designed, constructed, and maintained to preclude containment failure. MSW landfills are also subject to any more-stringent unstable area siting requirements referenced in SWRCB Resolution No. 93-62 (i.e., see §258.15 and §258.16 of 40CFR258).

(f) Tidal Waves—New and existing Class II Units may be located in areas subject to tsunamis, seiches, and surges. Other Units may be located within these areas if designed, constructed, and maintained to preclude failure due to such events.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13360, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

2. Change without regulatory effect amending subsection (c) filed 3-17-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 12).

§ 20260. SWRCB—Class III: Landfills for Nonhazardous Solid Waste. (C15: §2533)

(a) General—Class III landfills shall be located where site characteristics provide adequate separation between nonhazardous solid waste and waters of the state. The classification criteria in this section shall be used for reclassification of existing landfills at disposal sites approved as Class II-1 or II-2 (under previous versions of these SWRCB regulations) and any expansions of such landfills.

(b) Geologic Setting.

(1) MSW landfills are subject to the SWRCB-promulgated waste containment requirements of this subdivision and of SWRCB Resolution No. 93-62. New Class III and existing Class II-2 landfills shall be sited where soil characteristics, distance from waste to ground water, and other factors will ensure no impairment of beneficial uses of surface water or of ground water beneath or adjacent to the landfill. Factors that shall be evaluated include:

(A) size of the landfill:

(B) hydraulic conductivity and transmissivity of underlying soils;

(C) depth to ground water and variations in depth to ground water;

(D) background quality of ground water;

(E) current and anticipated use of the ground water; and

(F) annual precipitation.

(2) Where consideration of the factors in ¶(b)(1) indicates that site characteristics alone do not ensure protection of the quality of ground water or surface water, Class III landfills shall be required to have a single clay liner with hydraulic conductivity of $1x10^{-6}$ cm/sec or less.

(c) Flooding—New Class III and existing Class II-2 landfills shall be designed, constructed, operated, and maintained to prevent inundation or washout due to floods with a 100-year return period. MSW landfills are also subject to any more-stringent flood plain and wetland siting requirements referenced in SWRCB Resolution No. 93-62 (i.e., see §§258.11, 258.12, and 258.16 of 40CFR258).

(d) Ground Rupture—New Class III and expansions of existing Class II-2 landfills shall not be located on a known Holocene fault. However, existing landfills assigned a Class II-2 designation under previous versions of the SWRCB regulations may be located on a known Holocene fault, provided that the Unit's containment structures are capable of withstanding ground accelerations associated with the maximum probable earthquake (see §20370).

(e) Rapid Geologic Change—New Class III and unreclassified existing Class II-2 landfills can be located within areas of potential rapid geologic change only if the RWQCB finds that the Unit's containment structures are designed, constructed, and maintained to preclude failure. MSW landfills are also subject to any more-stringent unstable area siting requirements referenced in SWRCB Resolution No. 93-62 (see §258.15 and §258.16 of 40CFR258).

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13360, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section and Table 3.1 filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

TABLE 3.1 SWRCB's GEOLOGIC AND SITING CRITERIA FOR CLASSIFIED UNITS

Site Characteristics	[Reserved][1,4]	Unit Classification: New Class II[2]	Reclassification of Existing Class II	New Class III[3]	Reclassification of existing Class II-2[3]
Geologic Setting		Substantial isolation from ground water; see §20250(b)	As for new Class II.	Adequate separation from ground water; characteristics other than hydraulic conductivity will be considered; see §20260(b)	As for new Class III.
Flooding		<<----------	No Siting Restriction[5]	---------->>	---------->>
Ground Rupture		200' setback from known Holocene fault.	Exempt[5], except that expansions are as for new Class II.	Not located on known Holocene fault.	Exempt[5], except that expansion as new Class III.
Rapid Geologic Change		<<----------	No Siting Restriction[5]	---------->>	---------->>
Tidal Waves[6]		<<---------- No siting restriction ---------->>			

1 [Reserved.] *Note: These standards removed because they apply only to Class I Units (see Chapter 15, Div. 3., Title 23, CCR).*

2 This category is defined in §20250(a).

3 This category is defined in §20260(a).

4 [Reserved.] *Note: Left in Ch-15. Applies only to Class I Units.*

5 Exemption from siting criteria does not release dischargers from the obligation to protect Units from the geologic or environmental hazards involved. Exemption is conditions on such protection.

6 The term "Tidal Waves" includes tsunamis, seiches, and surge condition.

§ 20270. CIWMB—Location Restrictions: Airport Safety. (T14:§17258.10)

(a) Owners or operators of new Municipal Solid Waste Landfill units (MSWLF), existing MSWLF units, and lateral expansions of MSWLF units that are located within 10,000 feet (3,048 meters) of any airport runway end used by turbojet aircraft or within 5,000 feet (1,524 meters) of any airport runway end used by only piston-type aircraft must demonstrate that the units are designed and operated so that the MSWLF unit does not pose a bird hazard to aircraft.

(b) Owners or operators proposing to site new MSWLF units and lateral expansions located within a five-mile radius of any airport runway end used by turbojet or piston-type aircraft must notify the affected airport and the Federal Aviation Administration (FAA).

(c) The owner or operator must place the demonstration made pursuant to paragraph (a) of this section in the operating record and notify the EA that it has been placed in the operating record.

(d) Existing MSWLF units that cannot make the demonstration specified in §20270(a) pertaining to airports must:

(1) close by October 9, 1996, in accordance with §21110 of this article;

(2) conduct postclosure activities in accordance with §21110 of this article; and

(3) conduct closure and postclosure activities in accordance with applicable sections of Chapter 4, and Chapter 6, of this Division.

(e) The deadline for closure required by paragraph (a) of this section may be extended up to two years if the owner or operator demonstrates to the CIWMB that:

(1) There is no available alternative disposal capacity; and

(2) There is no immediate threat to human health and the environment.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40508 and 43103, Public Resources Code; and Title 40, Code of Federal Regulations, Sections 258.10 and 258.16.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

Article 4. SWRCB—Waste Management Unit Construction Standards

§ 20310. SWRCB—General Construction Criteria. (C15: §2540)

(a) Class II waste management units (Class II "Units") shall be designed and constructed to prevent migration of wastes from the Units to adjacent geologic materials, ground water, or surface water, during disposal operations, closure, and the post-closure maintenance period. Class II and Class III MSW landfills are also subject to any applicable waste containment system design requirements of SWRCB Resolution No. 93-62 to the extent that such requirements are more stringent than those applicable to a non-MSW Class II or Class III landfill under this subdivision.

(b) Each Class II Unit shall be designed and constructed for the containment of the specific wastes which will be discharged.

(c) Class III landfills shall have containment structures which are capable of preventing degradation of waters of the state as a result of waste discharges to the landfills if site characteristics are inadequate.

(d) For the purposes of this paragraph, the words "new" and "existing" have the same meaning as described in §20080(d). New landfills, waste piles, and surface impoundments shall comply with the requirements of this article. Existing waste piles and surface impoundments shall be fitted with liners and leachate collection and removal systems as described in §20330 and §20340 as feasible. Existing landfills and waste piles shall have interim cover as described in §20705. Existing landfills, waste piles, and surface impoundments shall be fitted with subsurface barriers as described in §20360 as needed and feasible, and shall have precipitation and drainage control facilities as described in §20365. Existing surface impoundments shall comply with §20375. New and existing land treatment units shall comply with §20377. All existing Units shall comply with the seismic design criteria in Section 20370.

(e) Containment structures shall be designed by, and construction shall be supervised and certified by, a registered civil engineer or a certified engineering geologist. Units shall receive a final inspection and approval of the construction by RWQCB or SWRCB staff before use of the Unit commences.

(f) The discharger shall maintain the integrity of containment structures in spite of normal excavation or fire control work; nevertheless, for fire control work, the discharger can damage containment structures to the extent necessary to control the fire, so long as the discharger promptly repairs such damage after extinguishing the fire. Excavations made as part of discharge operations shall not result in removal of any portion of a containment structure.

(g) Stability Analysis—For any portions of the Unit's containment system installed after July 18, 1997 for which the RWQCB has not approved a slope and foundation stability report on or before that date, the discharger shall meet the requirements of §21750(f)(5).

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13360, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New article 4 (sections 20310-20377) and section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 20320. SWRCB—General Criteria for Containment Structures. (C15: §2541)

(a) Material Properties—Materials used in containment structures shall have appropriate chemical and physical properties to ensure that such structures do not fail to contain waste because of pressure gradients (including hydraulic head and external hydrogeologic forces), physical contact with the waste or leachate, chemical reactions with soil and rock, climatic conditions, the stress of installation, or because of the stress of daily operation.

(b) Applicable Permeants—Hydraulic conductivities specified for containment structures other than cover shall be relative to the fluids, including waste and leachate, to be contained. Hydraulic conductivities specified for final cover shall be relative to water.

(c) Determining Hydraulic Conductivity—Hydraulic conductivities shall be determined primarily by appropriate field test methods in accordance with accepted civil engineering practice. The results of laboratory tests with both water and leachate, and field tests with water (*e.g., on the test pad*), shall be compared to evaluate how the field permeabilities will be affected by leachate. It is acceptable for the discharger to use appropriate compaction tests in conjunction with laboratory hydraulic conductivity tests to determine field permeabilities as long as a reasonable number of field hydraulic conductivity tests are also conducted (*e.g., a sealed double-ring infiltrometer test on the test pad*).

(d) Soils Used in Containment Structures—Earthen materials used in containment structures other than cutoff walls and grout curtains shall consist of a mixture of clay and other suitable fine-grained soils which have the following characteristics, and which, in combination, can be compacted to attain the required hydraulic conductivity when installed. Liners made of such materials are referred to as "clay liners" in this subchapter.

(1) At least 30 percent of the material, by weight, shall pass a No. 200 U.S. Standard sieve.

(2) The materials shall be fine-grained soils with a significant clay content and without organic matter, and which is a clayey sand, clay, sandy or silty clay, or sandy clay under a soil classification system having industry-wide use [*e.g., the "SC", "CL", or "CH" soil classes under ASTM Designation: "2487-93 Standard Classification of Soils for Engineering Purposes (Unified Soil Classification System)*].

(e) Synopses—Construction standards for waste management units other than land treatment are given on Table 4.1 and in Figure 4.1.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13360, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section, Table 4.1 and Figure 4.1 filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Change without regulatory effect amending Table 4.1 filed 3–17–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 12).
3. Change without regulatory effect amending Table 4.1 filed 5–19–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 20).

Table 4.1. Construction Standards for Units[1]

Waste Mgmt Unit Classification	*Type of Waste Management Unit*	*Clay Liner*[2]	*Synthetic Liner*	*Leachate Collection and Rem. System*	*Interim Cover*	*Subsurface Barriers* *Cutoff Walls*	*Grout Curtains*	*Capacity of Precip & Drain. Control Facilities (Design Storm)*	*Seismic Design*
Class II	Non MSW Landfill	Required[5], $\leq 1x10^{-6}$cm/sec	Not required	Required, blanket type	Required	$\leq 1x10^{-6}$ cm/sec[11]	$\leq 1x10^{-6}$ cm/sec	1000–year 24–hour precipitation	Withstand maximum credible earthquake
Class II	MSW Landfill[13]	Special[13]	Special[13]	Special[13]	Required	$\leq 1x10^{-6}$ cm/sec[11]	$\leq 1x10^{-6}$ cm/sec	1000–year 24–hour precipitation	Withstand maximum credible earthquake
Class II	Surface Impoundment	Double or single required[6], $\leq 1x10^{-6}$ cm/sec	Not required	Required with double liner, blanket type	Not required	$\leq 1x10^{-6}$ cm/sec[11]	$\leq 1x10^{-6}$ cm/sec	1000–year 24–hour precipitation	Withstand maximum credible earthquake
Class II	Waste Pile	Optional[4,5], $\leq 1x10^{-6}$ cm/sec	Not required	May be required, blanket type	May be required	$\leq 1x10^{-6}$ cm/sec[11]	$\leq 1x10^{-6}$ cm/sec	1000–year 24–hour precipitation	Withstand maximum credible earthquake
Class III	Non MSW Landfill	Optional, $\leq 1x10^{-6}$cm/sec (see §20260)	Not required	Required if liner is required, blanket or dendritic	Required	$\leq 1x10^{-6}$ cm/sec, if required	$\leq 1x10^{-6}$ cm/sec, if required	100–year 24–hour precipitation	Withstand at least the maximum probable earthquake (See §20370)
Class III	MSW Landfill[13]	Special[13]	Special[13]	Special[13]	Required	$\leq 1x10^{-6}$ cm/sec, if required	$\leq 1x10^{-6}$ cm/sec, if required	100–year 24–hour precipitation	Withstand at least the maximum probable earthquake (See §20370)

[1]Applicable regulations in this article may provide for exemptions to certain requirements. §20310(d) describes applicability to existing facilities.

[2]All permeabilities specified in this table are maximum allowable permeabilities.

[3][Reserved.] *Note: This footnote left in Ch–15 (of Division 3, Title 23, CCR), as it applies only to Class I Units.*

[4]A synthetic liner alone may be allowed based on nature of waste to be contained and duration of the operation. A waste pile with a synthetic liner alone may not be closed as a landfill pursuant to §21410 of this subchapter. The synthetic liner hydraulic conductivity shall be the same or less than that which would be required for a clay liner.

[5]Clay liner required unless Units are underlain by a substantial thickness of natural geologic materials with hydraulic conductivity of $1x10^{-6}$ cm/sec [i.e., 1 foot/year] or less.

[6]Single liner shall be a clay liner and removed or replaced as described in §20330. Double liner systems shall have either an outer clay liner or shall be underlain by a substantial thickness of natural geologic materials with an hydraulic conductivity of $1x10^{-6}$ cm/sec [i.e., 1 foot/year] or less to act as an outer liner.

[7][Reserved.]

[8][Reserved.]

[9][Reserved.]

[10][Reserved.]

[11]Cutoff walls required where there is potential for lateral movement of fluid, including waste or leachate, and the hydraulic conductivity of natural geologic materials is used for waste containment.

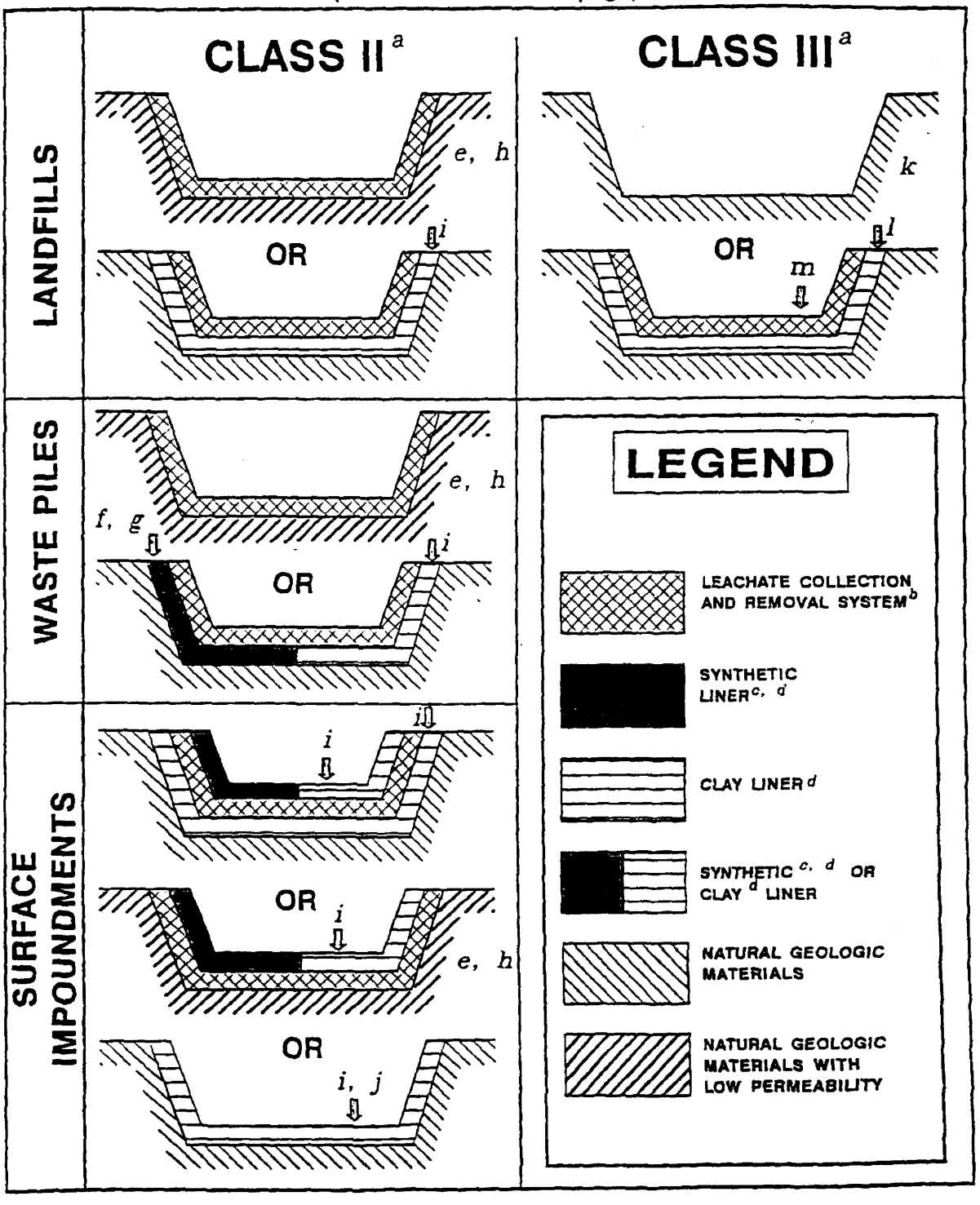
[12]For Units other than MSW landfills, the RWQCB can grant an exemption to this design storm requirement if the discharger can demonstrate that the integrity of facilities will not be jeopardized if this criterion is not met.

[13]All Class II or Class III landfills that received MSW at any time and that received solid waste after October 9, 1991 (MSW landfills) are subject to the additional state and federal requirements contained (or incorporated by reference) in SWRCB Resolution No. 93–62.

Figure 4.1:

SUMMARY OF LINER REQUIREMENTS FOR CLASSIFIED WASTE MANAGEMENT UNITS

(Footnotes on back of page)



Footnotes for Figure 4.1: Summary of Liner Requirements for Classified Units (for MSW Landfills, see Additional Requirements in SWRCB Resolution No. 93–92).

[a] Requirements from Chapter 3, Subdivision 1 of this division.

[b] Designed to convey twice the anticipated volume of leachate; must ensure no buildup of hydraulic head on liner; blanket type required unless otherwise specified.

[c] Minimum 40 mils thick.

[d] Must be compatible with waste and/or leachate.

[e] Cutoff walls required where potential exists for lateral movement of waste or leachate.

[f] Acceptability of synthetic liner depends on nature of waste and duration of operation.

[g] Liner and waste to be removed at closure.

[h] Substantial thickness of natural geologic material with maximum hydraulic conductivity of $1x10^{-6}$ cm/sec (i.e., 1.0 foot/year). For MSW landfills, see SWRCB Resolution No. 93–62 for superseding containment system requirements.

[i] Minimum thickness of 2 feet; maximum hydraulic conductivity of $1x10^{-6}$ cm/sec (i.e., 1.0 foot/year). For MSW landfills, see SWRCB Resolution No. 93–62 for superseding containment system requirements.

[j] Liner removed or replaced before lower 25% (minimum 1 foot thickness) of the liner is penetrated by waste or leachate.

[k] Soil characteristics, distance from waste to ground water, and other factors must ensure no impairment of beneficial uses of ground water. Leachate collection system required for sludge disposal. For MSW landfills, see SWRCB Resolution No. 93–62 for superseding containment system requirements.

[l] Minimum thickness of 1 foot; maximum hydraulic conductivity of $1x10^{-6}$ cm/sec (i.e., 1.0 foot/year). For MSW landfills, see SWRCB Resolution No. 93–62 for superseding containment system requirements.

[m] Dendritic system allowed if wastes in contact with the liner will remain permeable and liner is sloped toward the system to prevent ponding. For MSW landfills, see SWRCB Resolution No. 93–62 for superseding containment system requirements.

§ 20323. SWRCB—CQA Plan. (new)

After July 18, 1997, the RWQCB shall require construction for all liner systems and final cover systems to be carried out in accordance with a CQA plan certified by an appropriately registered professional to satisfy the requirements of §20324. If the RWQCB finds that any construction of the liner system or final cover system was undertaken in the absence of a CQA plan that satisfies the requirements of §20324, the RWQCB shall require the discharger to undertake any corrective construction needed to achieve such compliance.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13360, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20324. SWRCB—CQA Requirements. (T14: §17774)

(a) Performance Standard—The construction quality assurance (CQA) program, including all relevant aspects of construction quality control (CQC), shall provide evidence that materials and procedures utilized in the placement of the any containment feature at a waste management unit (Unit) will be tested and monitored to assure the structure is constructed in accordance with the design specifications approved by the RWQCB.

(b) Professional Qualifications.

(1) The design professional who prepares the CQA plan shall be a registered civil engineer or certified engineering geologist; and

(2) The construction quality assurance program shall be supervised by a registered civil engineer or certified engineering geologist who shall be designated the CQA officer.

(c) Reports.

(1) The project's CQA report shall address the construction requirements, including any vegetation procedures, set forth in the design plan for the containment system. For each specified phase of construction, this report shall include, but not be limited to:

(A) a delineation of the CQA management organization, including the chain of command of the CQA inspectors and contractors;

(B) a detailed description of the level of experience and training for the contractor, the work crew, and CQA inspectors for every major phase of construction in order to ensure that the installation methods and procedures required in the containment system design will be properly implemented.

(C) a description of the CQA testing protocols for preconstruction, construction, and postconstruction which shall include at a minimum:

1. the frequency of inspections by the operator,

2. the sampling and field testing procedures and equipment to be utilized, and the calibration of field testing equipment,

3. the frequency of performance audits determined by the design professional and examined by the CQA officer,

4. the size, method, location and frequency of sampling, sampling procedures for laboratory testing, the soils or geotechnical laboratory to be used, the laboratory procedures to be utilized, the calibration of laboratory equipment and quality assurance and quality control of laboratory procedures,

5. the pass/fail criteria for sampling and testing methods used to achieve containment system design, and

6. a description of the corrective procedures in the event of test failure.

(d) Documentation—Construction quality assurance documentation requirements shall include, at the minimum: reports bearing unique identifying sheet numbers for cross–referencing and document control, the date, project name, location, descriptive remarks, the data sheets, inspection activities, and signature of the designated authorities with concurrence of the CQA officer.

(1) The documentation shall include:

(A) Daily Summary Reports—daily recordkeeping, which shall include preparation of a summary report with supporting inspection data sheets, problem identification and corrective measures reports. Daily summary reports shall provide a chronological framework for identifying and recording all other reports. Inspection data sheets shall contain all observations (i.e., notes, charts, sketches, or photographs), and a record of field and/or laboratory tests. Problem identification and corrective measures reports shall include detailed descriptions of materials and/or workmanship that do not meet a specified design and shall be cross–referenced to specific inspection data sheets where the problem was identified and corrected;

(B) Acceptance Reports—all reports shall be assembled and summarized into Acceptance Reports in order to verify that the materials and construction processes comply with the specified design. This report shall include, at a minimum, inspection summary reports, inspection data sheets, problem identification and corrective measures reports;

(C) Final Documentation—at the completion of the project, the operator shall prepare a Final Documentation which contains all reports submitted concerning the placement of the containment system. This document shall provide evidence that the CQA plan was implemented as proposed and that the construction proceeded in accordance with design criteria, plans, and specifications. The discharger shall submit copies of the Final Documentation report to the RWQCB as prepared by the CQA officer.

(2) Once construction is complete, the document originals shall be stored by the discharger in a manner that will allow for easy access while still protecting them from any damage. All documentation shall be maintained throughout the postclosure maintenance period.

(e) Laboratory Testing Requirements. [*Note: the following (ASTM) standards are available from the American Society of Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428–2929, phone: 610–832–9585*]

(1) Analysis of earthen materials shall be performed prior to their incorporation into any containment system component. Representative samples for each layer within the containment system shall be evaluated. The following minimum laboratory testing procedures shall be performed:

(A) ASTM Designation: D 1557–91 [1/91], "Laboratory Compaction Characteristics of Soil Using Modified Effort (2,700 kN–m/m3)" which is incorporated by reference;

(B) ASTM Designation: D 422–63 (Reapproved) [9/90], "Standard Method for Particle–Size Analysis of Soils," which is incorporated by reference; and

(C) ASTM Designation: D 2487–93 [11/93], "Standard Classification of Soils for Engineering Purposes," which is incorporated by reference.

(2) In addition to the tests listed in ¶(e and f), the following minimum laboratory tests shall be performed on low–hydraulic–conductivity layer components constructed from soil:

(A) ASTM Designation: D 4318–93 [11/93], "Standard Test Method for Liquid Limit, Plastic Limit, and Plasticity Index of Soils," which is incorporated by reference; and

(B) United States Environmental Protection Agency (USEPA) Test Method 9100 [Approved 9–86], "Triaxial–Cell Method with Back Pressure," which is incorporated by reference.

(f) Field Testing Requirements—The following minimum field test procedure shall be performed for each layer in the containment system: ASTM Designation: D 2488–93 [9/93], Standard Practice for Description and Identification of Soils (Visual–Manual Procedure), which is incorporated by reference.

(g) Test Fill Pad Requirements—Before installing the compacted soil barrier layer component of a final cover system, or the compacted soil component of a liner system, the operator shall accurately establish the correlation between the design hydraulic conductivity and the density at which that conductivity is achieved. To accomplish this the operator shall:

(1) provide a representative area for a test on any compacted foundation and low–hydraulic– conductivity layers. The following minimum testing procedures shall be performed:

(A) the test pad foundation and, for final covers, the barrier layers shall be compacted with the designated equipment to determine if the specified density/moisture–content/hydraulic– conductivity relationships determined in the laboratory can be achieved in the field with the compaction equipment to be used and at the specified lift thickness;

(2) perform laboratory tests as specified in subsection (e); and

(3) perform field tests as specified in subsection (f). The discharger shall perform hydraulic conductivity tests in the test area under saturated conditions by using the standard test method ASTM Designation: D 3385–94 [9/94], "Standard Test Method for Infiltration Rate of Soils in Field Using Double–Ring Infiltrometer," which is incorporated by reference, for vertical hydraulic conductivity measurements. A sufficient number of tests shall be run to verify the results. Other methods that provide an accurate and precise method of measuring field hydraulic conductivity may be utilized as approved by the RWQCB.

(4) Correlations between laboratory tests and test pad results shall be established for each of the various types of fill materials and blends to be used in construction of the actual cover.

(h) Earthen Material Requirements.

(1) The following minimum tests shall include, but not be limited to:

(A) Laboratory tests as specified in ¶(e); and

(B) Field tests as specified in subsections (f and g).

(2) The following minimum testing frequencies shall be performed:

(A) Four (4) field density tests shall be performed for each 1,000 cubic yards of material placed, or at a minimum of four (4) tests per day;

(B) Compaction curve data (ASTM Designation: D 1557–91) graphically represented, and Atterberg limits (ASTM Designation: D 4318–93) shall be performed on the barrier layer material once a week and/or every 5,000 cubic yards of material placed;

(C) For field hydraulic conductivity tests, representative samples shall be performed on barrier layer material;

1. The frequency of testing may be increased or decreased, based on the pass/failure status of previous tests, as approved by the RWQCB.

2. Field infiltration tests shall be performed for the duration necessary to achieve steady conditions for the design hydraulic conductivity.

3. The following interpretive equation shall be used to determine the design hydraulic conductivity:

The infiltration rate (I) is defined as:

$$I = Q/(tA)$$

where Q = volume of flow;
t = interval of time corresponding to flow Q; and
A = area of the ring;

then the hydraulic conductivity (k) can be calculated from Darcy's law as follows:

$$k = I/i$$

where: I = infiltration rate; and
i = hydraulic gradient.

(i) Geosynthetic Membrane Requirements.

(1) Performance requirements for the geosynthetic membrane include, but are not limited to, the following:

(A) a need to limit infiltration of water, to the greatest extent possible;

(B) a need to control landfill gas emissions;

(C) for final covers, mechanical compatibility with stresses caused by equipment traffic, and the result of differential settlement of the waste over time; and

(D) for final covers, durability throughout the postclosure maintenance period.

(2) Minimum Criteria—The minimum construction quality assurance criteria to ensure that geosynthetic membranes will meet or exceed all design specifications shall include, but not be limited to:

(A) Preconstruction quality control program:

1. inspection of the raw materials (e.g., density, melt flow index, percent carbon Black);

2. manufacturing operations and finished product specifications (e.g., thickness, puncture resistance, multi–axial stress/strain tests),

3. fabrication operations (e.g., factory seaming);

4. observations related to transportation, handling, and storage of the geosynthetic membrane; and

5. inspection of foundation preparation;

(B) Construction activities:

1. the geosynthetic membrane shall have thickness strength sufficient to withstand the stresses to which it shall be subjected, including shear forces, puncture from rocks or, for final covers, penetration from roots.

2. inspection of geosynthetic membrane placement (e.g., trench corners, monitoring systems).

3. seaming of the material; and

4. installation of anchors and seals;

(C) Postconstruction Activity—postconstruction activity includes checking for material and placement imperfections in the installed geosynthetic membrane. Imperfections that jeopardize the integrity of the membrane's function as an impermeable barrier (i.e., pin holes, rips, creases created during placement) shall be repaired to the original manufacturer's specifications and reinspected by the CQA officer; and

(D) Evaluation—evaluation of the personnel and equipment to be used to install and inspect the geosynthetic membrane, and pass/fail criteria and corrective procedures for material and installation procedures shall be specified as required in ¶(c).

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13360, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20330. SWRCB—Liners. (C15: §2542)

(a) Performance Standard—Liners shall be designed and constructed to contain the fluid, including landfill gas, waste, and leachate, as required by Article 3 of this subchapter (§20240 et seq., and §20310).

(b) Clay Liners—Clay liners for a Class II Unit shall be a minimum of 2 feet thick and shall be installed at a relative compaction of at least 90 percent. For a Class III landfill, a clay liner, if required, shall be a minimum of 1–foot thick and shall be installed at a relative compaction of at least 90 percent. For MSW landfills subject to the liner requirements in the federal MSW regulations of 40CFR258, after the Federal Deadline for liners at that Unit, the requirements of this paragraph are superseded

by those of SWRCB Resolution No. 93–62 for all portions of the Unit outside the Existing Footprint.

(c) FMLs—Flexible membrane liners ("FMLs", or synthetic liners) shall have a minimum thickness of 40 mils (i.e., 0.040"). For an MSW landfill subject to the liner requirements in the federal MSW regulations (40CFR258), after the Federal Deadline for liners at that Unit, the requirements of this paragraph are superseded by those of SWRCB Resolution No. 93–62 for all portions of the Unit outside the Existing Footprint.

(d) Lined Area—Liners shall be installed to cover all natural geologic materials (at the Unit) that are likely to be in contact with waste (including landfill gas or leachate).

(e) S.I. With Replaceable Liner—A Class II surface impoundment may have a single clay liner with a hydraulic conductivity of 1×10^{-6} cm/sec (i.e., 1 foot/year) or less if the liner is removed or replaced before the last 25 percent (minimum 1 foot thickness) of the liner is penetrated by fluid, including waste or leachate. The method used to determine seepage velocity shall be included with the calculations of liner penetration.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13360, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20340. SWRCB—Leachate Collection and Removal Systems (LCRS). [C15: §2543 // T14: §17781(b)(2) & (d)(1)]

(a) Basic LCRS Design—Leachate collection and removal systems (LCRS) are required for Class II landfills and surface impoundments, and for Class III landfills which have a liner or which accept sewage or water treatment sludge. The LCRS shall be installed directly above underlying containment features for landfills and waste piles, and installed between the liners for surface impoundments. LCRS requirements are summarized on Table 4.1. Class II landfills and waste piles which contain only dry wastes (not including nonhazardous solid waste and decomposable waste) may be allowed to operate without an LCRS if the discharger demonstrates, based on climatic and hydrogeologic conditions, that leachate will not be formed in, or migrate from, the Unit; nevertheless, for a Class II or Class III MSW landfill, after the Federal Deadline for installing liners at that Unit, the LCRS requirements of SWRCB Resolution No. 93–62 apply to all portions outside of the Unit's Existing Footprint.

(b) Placement—Except as otherwise provided in ¶(e or f), where an LCRS is used, it shall be installed immediately above the liner (except in the case of a surface impoundment), and between the inner and outer liner of a double-liner system, and shall be designed, constructed, maintained, and operated to collect and remove twice the maximum anticipated daily volume of leachate from the Unit.

(c) Head Buildup—The RWQCB shall specify design and operating conditions in WDRs to ensure that there is no buildup of hydraulic head on the liner. The depth of fluid in the collection sump shall be kept at the minimum needed to ensure efficient pump operation.

(d) Clogging—LCRSs shall be designed and operated to function without clogging through the scheduled closure of the Unit and during the post-closure maintenance period. The systems shall be tested at least annually to demonstrate proper operation. The results of the tests shall be compared with earlier tests made under comparable conditions.

(e) Standard LCRS—LCRSs shall consist of a permeable subdrain layer which covers the bottom of the Unit and extends as far up the sides as possible, (i.e., blanket-type) except as provided in ¶(f). The LCRS shall be of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes, waste cover materials, and by any equipment used at the Unit.

(f) Alternative LCRS—Except as otherwise required for MSW landfills, under SWRCB Resolution No. 93–62, if a Class III landfill is required to have an artificial liner and receives only permeable waste that allows free drainage of percolating fluid, the RWQCB can allow the use of a dendritic LCRS which underlies less than 100 percent of the waste; in this type of LCRS system, only wastes which have an hydraulic conductivity which approximates that of subdrain material, and which will remain permeable throughout the active life and post-closure maintenance period of the landfill, shall be placed adjacent to the liner. Furthermore, to prevent ponding, when using this type of LCRS, all portions of the liner not overlain by a portion of the subdrain system shall be sloped towards the subdrain so that ponding is minimized and leachate is removed as quickly as possible from the base of the landfill.

(g) Leachate Handling—Except as otherwise provided under SWRCB Resolution No. 93–62 (for MSW landfills subject to 40CFR258.28), collected leachate shall be returned to the Unit(s) from which it came or discharged in another manner approved by the RWQCB. Collected leachate can be discharged to a different Unit only if:

(1) the receiving Unit has an LCRS, contains wastes which are similar in classification and characteristics to those in the Unit(s) from which leachate was extracted, and has at least the same classification (under Article 3 of this subchapter) as the Unit(s) from which leachate was extracted;

(2) the discharge to a different Unit is approved by the RWQCB;

(3) the discharge of leachate to a different Unit shall not exceed the moisture-holding capacity of the receiving unit, and shall comply with §20200(d).

(h) Leachate Production Rate—After July 18, 1997, for a landfill equipped with an LCRS, the discharger shall note, as a part of each regularly scheduled monitoring report [under Article 1, Subchapter 3, Chapter 3 of this division (§20380 et seq.)], the total volume of leachate collected each month since the previous monitoring report.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13360, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20360. SWRCB—Subsurface Barriers. (C15: §2545)

(a) Subsurface barriers are cutoff walls or grout curtains which are used in conjunction with natural geologic materials to assure that lateral hydraulic conductivity standards specified in Article 3 of this subchapter are satisfied. Paragraphs (b) and (c) specify conditions under which cutoff walls and grout curtains, respectively, are used.

(b) Cutoff walls.

(1) Cutoff walls are required at Class II Units where there is potential for lateral movement of fluid, including waste or leachate, and the hydraulic conductivity of natural geologic materials is used for waste containment in lieu of a liner. Cutoff walls shall be installed at Class III landfills as required by the RWQCB.

(2) Cutoff walls shall be:

(A) a minimum of two feet thick for clay materials; or

(B) a minimum of 40 mils (i.e., 0.040") thick for synthetic materials; and

(C) regardless of the option under ¶(b)(2)(A or B), shall be keyed a minimum of five feet into natural geologic material which satisfies the applicable hydraulic conductivity requirements in Article 3 of this subchapter.

(3) If cutoff walls are used, excavations for Units shall be keyed into natural geologic materials which satisfy applicable hydraulic conductivity requirements in Article 3 of this Subchapter.

(4) At closure of a waste pile or surface impoundment, all contaminated natural geologic materials present between the cutoff wall(s) and the waste shall be removed and disposed of at an authorized location, or the Unit shall be closed as a landfill.

(5) Cutoff walls shall have fluid collection systems installed upgradient of the structure. The systems shall be designed, constructed, operated, and maintained to prevent the buildup of hydraulic head against the structure. The collection system shall be inspected regularly, and accumulated fluid shall be removed.

(c) Grout Curtains.

(1) Grout curtains may be used as needed to prevent lateral waste movement through fractures in natural geologic materials that otherwise satisfy applicable hydraulic conductivity requirements in Article 3 of this

Subchapter. Only fractures that are at or near the surface and are of limited vertical extent may be grouted.

(2) The acceptability of grout curtains for a Unit shall include consideration of:

(A) depth and nature of fracturing; and

(B) fracture orientation.

(3) Grout characteristics shall not be adversely affected by fluid, including waste and leachate, or natural conditions.

(4) Optimum grouting pressure and the placement of grout holes shall be determined by test grouting.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13360, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20365. SWRCB—Precipitation and Drainage Controls. [C15: §2546 // T14: §17778(e), (f)(1), (g), & (j)]

(a) General—Units and their respective containment structures shall be designed and constructed to limit, to the greatest extent possible, ponding, infiltration, inundation, erosion, slope failure, washout, and overtopping under the precipitation conditions specified in Table 4.1 (of this article) for each class of waste management unit (Unit). [*Note: see also §21090(b)(1).*]

(b) Undiverted Precipitation—Precipitation on landfills or waste piles which is not diverted by covers or drainage control systems shall be collected and managed through the leachate collection and removal system, which shall be designed and constructed to accommodate precipitation conditions specified in Table 4.1 of this article or each class Unit.

(c) Performance Standards—Diversion and drainage facilities shall be designed, constructed, and maintained:

(1) to accommodate the anticipated volume of precipitation and peak flows from surface runoff under the precipitation conditions specified in Table 4.1 of this article for each class of Unit;

(2) to effectively divert sheet flow runoff laterally, or via the shortest distance, into the drainage and collection facilities;

(3) to prevent surface erosion through the judicious use of:

(A) energy dissipators where required to decrease the velocity of runoff; and

(B) slope protection and other erosion control measures;

(4) to control and intercept run-on, in order to isolate uncontaminated surface waters from water that might have come into contact with waste;

(5) to take into account:

(A) for closed Units and for closed portions of Units, the expected final contours of the closed Unit, including its planned drainage pattern;

(B) for operating portions of Units other than surface impoundments, the Unit's drainage pattern at any given time;

(C) the possible effects of the Unit's drainage pattern on and by the regional watershed;

(D) the design capacity of drainage systems of downstream and adjacent properties by providing for the gradual release of retained water downstream in a manner which does not exceed the expected peak flow rate at the point of discharge if there were no waste management facility; and

(6) to preserve the system's function. Therefore, the discharger shall periodically remove accumulated sediment from the sedimentation or detention basins as needed to preserve the design capacity of the system.

(d) Maintain Capacity—Collection and holding facilities associated with precipitation and drainage control systems shall be emptied immediately following each storm or otherwise managed to maintain the design capacity of the system.

(e) Divert Drainage—Surface and subsurface drainage from outside of a Unit shall be diverted from the Unit.

(f) Resist Erosion from Design Storm—Cover materials shall be graded to divert precipitation from the Unit, to prevent ponding of surface water over wastes, and to resist erosion as a result of precipitation with the return frequency specified in Table 4.1 (of this article) for each class of Unit, unless, for a landfill, the CIWMB/EA requires (for protection of public health and safety) that the design be capable of resisting erosion resulting from a longer return interval storm [see §21150(b)]. Any drainage layer in the final cover shall be designed and constructed to intersect with the final drainage system for the Unit in a manner promoting free drainage from all portions of the drainage layer.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13360, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20370. SWRCB—Seismic Design. (C15: §2547)

(a) Class II Units shall be designed to withstand the maximum credible earthquake (MCE) without damage to the foundation or to the structures which control leachate, surface drainage, or erosion, or gas. Class III Units shall be designed to withstand the maximum probable earthquake (MPE) without damage to the foundation or to the structures which control leachate, surface drainage, or erosion, or gas. [*Note: see also submittal requirements under §21750(f)(5)*]

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13360, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20375. SWRCB—Special Requirements for Surface Impoundments. (C15: §2548)

(a) Freeboard—Surface impoundments shall have sufficient freeboard to accommodate seasonal precipitation and the design storm specified in Table 4.1 of this article, but in no case less than 2 feet (measured vertically, from the water surface up to the point on the surrounding lined berm, or dike, having the lowest elevation), and shall be designed and constructed to prevent overtopping as a result of wind conditions likely to accompany such precipitation conditions. The RWQCB can allow a freeboard of less than 2 feet at surface impoundments located on the interior portions of a waste management facility where: 1) these interiormost impoundments are designed such that potential overflows would be reliably conveyed by gravity flow and discharged to other surface impoundments having adequate capacity to receive such diversion without exceeding their respective freeboard limitations; 2) the operation implements a properly developed water balance plan; and 3) the facility is provided with a fail-safe emergency retention area solely for the purpose of containing wastes due to surface impoundment failures.

(b) Operation Plan—An operation plan shall be submitted to the RWQCB which will provide operation levels and waste input quantities permitted each month based on anticipated precipitation and on past precipitation conditions for the year.

(c) Fail-Safe—Direct pipeline discharge to surface impoundments shall be either equipped with devices or shall have fail-safe operating procedures to prevent overfilling. Discharges shall be stopped in the event of any containment system failure which causes a threat to water quality.

(d) Unauthorized Discharges—There shall be no discharge from a surface impoundment except as authorized by WDRs.

(e) Scour Protection—Surface impoundments shall be designed and constructed to prevent scouring of containment structures at points of discharge into the impoundments and by wave action at the waterline.

(f) Liner Inspections—All visible portions of synthetic liners shall be inspected weekly until all free liquid is removed from the surface impoundment as part of closure pursuant to §21400(a). If, during the active life of the impoundment, the wastes are removed and the bottom of the impoundment is cleaned down to the liner, an inspection shall be made of the bottom of the liner prior to refilling of the impoundment.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13360, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20377. SWRCB—Special Requirements for Land Treatment Units (LTUs). (C15: §2549)

(a) General—Dischargers operating LTUs shall comply with the general criteria specified in §20320(a & d), with the precipitation and drainage controls specified in §20365, and with the seismic design criteria in §20370.

(b) Performance Standard—Dischargers shall design, construct, operate, and maintain LTUs to maximize the degradation, transformation, and immobilization of waste constituents in the treatment zone. Dischargers shall design, construct, operate, and maintain units in accord with all design and operating conditions that were used in treatment demonstrations under §20250.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13360, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

Subchapter 3. Water Monitoring

[Note: For gas monitoring at landfills, see Article 6, Subchapter 4 of this chapter. For final cover monitoring at landfills, see §21090(a)(4).]

Article 1. SWRCB—Water Quality Monitoring and Response Programs for Solid Waste Management Units

§ 20380. SWRCB—Applicability. (C15: §2550.0)

(a) The regulations in this article apply to owners or operators of facilities that treat, store, or dispose of waste at waste management units. The owner or operator of a surface impoundment, waste pile, landfill, or land treatment unit that receives or has received waste (hereinafter referred to as "waste management units", or "Units") that is subject to the SWRCB-promulgated requirements of this division, pursuant to §§20080 and 20090 shall comply with the provisions of this article for purposes of detecting, characterizing, and responding to releases to ground water, surface water, or the unsaturated zone. Furthermore, §20400 of this article also applies to all determinations of alternative cleanup levels for unpermitted discharges to land of solid waste, pursuant to ¶III.G. of SWRCB Resolution No. 92–49 [§2550.4 of Title 23 of this code serves a similar function for unpermitted discharges to land of hazardous waste].

(b) Known or Reasonably Foreseeable Release—In accordance with applicable requirements of §§22220–22222, waste discharge requirements (WDRs) for a Unit subject to this section shall contain a provision which requires the discharger to obtain and maintain assurances of financial responsibility for initiating and completing corrective action for all known or reasonably foreseeable releases from the Unit.

(c) [Reserved]

(d) Apply Unless Clean-Closed—The regulations under this article apply during the Unit's active life and closure period. After closure of the Unit, the regulations in this article apply during the post-closure maintenance period of the Unit and during any compliance period under §20410 of this article, unless:

(1) the Unit has been in compliance with the water quality protection standard ("Water Standard" of §20390) for a period of three consecutive years; and

(2) Clean-Closure—all waste, waste residues, contaminated containment system components, contaminated subsoils, and all other contaminated materials are removed or decontaminated at closure, pursuant to: §21090(f), for landfills; §21400(b)(1), for surface impoundments; or §21410(a)(1), for waste piles.

(e) Allowable Engineered Alternatives—In considering a monitoring proposal by the discharger, the RWQCB can allow an engineered alternative for any of the prescriptive standards in this article so long as the RWQCB:

(1) finds that each engineered alternative meets the requirements of §20080(b & c);

(2) finds, for each applicable program under §20385, that the discharger's proposed monitoring–data procurement and analysis methods achieve the program's respective goals, including:

(A) for a detection monitoring program, the goals articulated in §20420(b);

(B) for an evaluation monitoring program, the goals articulated in §20425(a)(2); and

(C) for a corrective action program, the goals articulated in §20430(b);

(3) requires ground water monitoring at least annually at disposal Units and at Units that will be used for five or more years for waste treatment or storage.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13267, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New subchapter 3, article 1 (sections 20380–20435) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20385. SWRCB—Required Programs. (C15: §2550.1)

(a) Monitoring Programs & their Respective Triggers—A discharger subject to this article shall conduct a monitoring and response program, approved by the RWQCB, for each Unit at the facility as follows.

(1) Detection Monitoring (default)—The discharger shall institute a detection monitoring program (under §20420) except as required below under ¶(a)(2–4);

(2) Evaluation Monitoring (trigger #1)—The discharger shall institute an evaluation monitoring program (under §20425) whenever there is "measurably significant" (see §20164) evidence of a release from the Unit during a detection monitoring program [under §20420(g or i)];

(3) Evaluation Monitoring (trigger #2)—The discharger shall institute an evaluation monitoring program (under §20425) whenever there is significant physical evidence of a release from the Unit. Significant physical evidence of a release includes unexplained volumetric changes in surface impoundments, unexplained stress in biological communities, unexplained changes in soil characteristics, visible signs of leachate migration, and unexplained water table mounding beneath or adjacent to the Unit and any other change to the environment that could reasonably be expected to be the result of a release from the Unit; and

(4) Corrective Action—The discharger shall institute a corrective action program under §20430 of this article when the RWQCB determines (pursuant to §20425) that the assessment of the nature and extent of the release and the design of a Corrective Action Program have been satisfactorily completed and the RWQCB approves the application for an amended report of waste discharge for corrective action submitted by the discharger during an evaluation monitoring program [pursuant to §20425(d)].

(b) Preparation for Other Programs—The RWQCB shall specify in the WDRs the specific type or types of monitoring programs required and the specific elements of each monitoring and response program. For each Unit, the RWQCB shall require one or more of the programs identified in ¶(a) that is appropriate for the prevailing state of containment at the Unit, and shall specify the circumstances under which each of the programs will be required. In deciding whether to require the discharger to be prepared to institute a particular program, the RWQCB shall consider the potential adverse effects on human health or the environment that might occur before final administrative action on an amended report of waste discharge to incorporate such a program could be taken.

(c) Concurrent Detection Monitoring Program, Where Necessary—In conjunction with an evaluation monitoring program or a corrective action program, the discharger shall continue to conduct a detection monitoring program as necessary to provide the best assurance of the detection of subsequent releases from the Unit.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13263, 13267 and 13304, Water Code; and Section 43103, Public Resources Code.

HISTORY
1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20390. SWRCB—Water Quality Protection Standard (Water Standard). (C15: §2550.2)

(a) Components & Duration—For each Unit, the RWQCB shall establish a water quality protection standard (Water Standard) in the WDRs. This Water Standard shall consist of the list of constituents of concern (under §20395), the concentration limits (under §20400), and the Point of Compliance and all Monitoring Points (under §20405). This Water Standard shall apply during the active life of the Unit, the closure period, the post–closure maintenance period, and during any compliance period (under §20410).

(b) Program–Specific Water Standards—If a discharger is conducting a detection monitoring program in conjunction with a corrective action program for a Unit [pursuant to §20385(c)], the RWQCB may establish separate Water Standards for each program.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13263, 13267 and 13304, Water Code; and Section 43103, Public Resources Code.

HISTORY
1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20395. SWRCB—Constituents of Concern (COCs). (C15: §2550.3)

(a) COCs—For each Unit, the RWQCB shall specify in the WDRs the Constituents of Concern (COCs) to which the Water Standard (under §20390) applies. The COC list shall include all waste constituents, reaction products, and hazardous constituents that are reasonably expected to be in or derived from waste contained in the Unit.

(b) MSW COCs—For MSW landfills, the COC list shall include all constituents mandated under SWRCB Resolution No. 93–62.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13263 and 13267, Water Code; and Section 43103, Public Resources Code.

HISTORY
1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20400. SWRCB—Concentration Limits. (C15: §2550.4)

[*Note: The special applicability of this section is described in §20380(a); see also §20080(a).*]

(a) Proposal of Concentration Limits—For each Constituent of Concern (COC) specified pursuant to §20395 (or for a solid waste constituent that is addressed by a cleanup and abatement action taken pursuant to SWRCB Resolution No. 92–49), the discharger shall propose one of the following for each medium (under §20415, including ground water, surface water, and the unsaturated zone) monitored pursuant to §20415 of this article:

(1) Background Value—a concentration limit not to exceed the background value of that constituent as determined pursuant to §20415(e)(10)(A);

(2) Value Redetermined Each Time—that the WDRs include a statement that, at any given time, the concentration limit for that COC will be equal to the background value of that constituent, as determined pursuant to §20415(e)(10)(B); or

(3) CLGB— a concentration limit greater than background (CLGB) established pursuant to this section for a corrective action program.

(b) Adoption of Concentration Limits—The RWQCB shall review the proposed concentration limits and statements and shall approve, modify, or disapprove each proposed limit and each proposed statement. Upon final approval by the RWQCB, each concentration limit and each statement shall be specified in WDRs. The RWQCB shall approve more than one concentration limit for different Monitoring Points in the same medium only if:

(1) more than one background condition exists within a particular medium;

(2) the statistical method approved for a constituent uses intra–well comparisons procedures; or

(3) CLGBs have been established for a corrective action program at the Monitoring Points in the zone affected by a release from the Unit.

(c) Establishing a CLGB—For a corrective action program, the RWQCB shall establish a CLGB [under ¶(a)(3)] only if the RWQCB finds that it is technologically or economically infeasible to achieve the background value for that constituent and that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the CLGB is not exceeded. In making this finding, the RWQCB shall consider the factors specified in ¶(d), the results of the engineering feasibility study submitted pursuant to §20425(c), data submitted by the discharger pursuant to §20425(d)(2) to support the proposed CLGB, public testimony on the proposal, and any additional data obtained during the evaluation monitoring program.

(d) Considerations—In establishing a CLGB for a constituent of concern, the RWQCB shall consider the following factors:

(1) potential adverse effects on ground water quality and beneficial uses, considering:

(A) the physical and chemical characteristics of the waste in the Unit;

(B) the hydrogeological characteristics of the facility and surrounding land;

(C) the quantity of ground water and the direction of ground water flow;

(D) the proximity and withdrawal rates of ground water users;

(E) the current and potential future uses of ground water in the area;

(F) the existing quality of ground water, including other sources of contamination or pollution and their cumulative impact on the ground water quality;

(G) the potential for health risks caused by human exposure to waste constituents;

(H) the potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(I) the persistence and permanence of the potential adverse effects; and

(2) potential adverse effects on surface water quality and beneficial uses, considering:

(A) the volume and physical and chemical characteristics of the waste in the Unit;

(B) the hydrogeological characteristics of the facility and surrounding land;

(C) the quantity and quality of ground water and the direction of ground water flow;

(D) the patterns of precipitation in the region;

(E) the proximity of the Unit to surface waters;

(F) the current and potential future uses of surface waters in the area;

(G) the existing quality of surface water including other sources of contamination or pollution and the cumulative impact on surface water quality;

(H) the potential for health risks caused by human exposure to waste constituents;

(I) the potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) the persistence and permanence of the potential adverse effects.

(e) CLGB Ceiling—In no event shall a CLGB for a constituent of concern exceed the lowest concentration that the discharger demonstrates and the RWQCB finds is technologically and economically achievable. No provision of this section shall be taken to allow a CLGB for a constituent of concern to exceed the maximum concentration that would be allowed under other applicable statutes or regulations [e.g., Maximum Concentration Limits established under the federal Safe Drinking Water Act (P.L. 93–523, codified as Subchapter XII of the Public Health Service Act at 42 USC 300f, et. seq.; regulations establishing MCL's are located in 40 CFR Part 141, Subpart B), etc.].

(f) Receptor Location—For ground water, in evaluating risk pursuant to ¶(d) to any biological receptor, the risk shall be evaluated as if exposure would occur at the Point of Compliance.

(g) Additivity—Proposals for CLGBs shall include a demonstration that the aggregate of hazardous constituents in the environment will not

result in excessive exposure to a sensitive biological receptor. In the absence of scientifically valid data to the contrary, theoretical risks from chemicals associated with the release from the Unit shall be considered additive across all media of exposure, and shall be considered additive for all chemicals having similar toxicological effects or having carcinogenic effects.

(h) Applicability—A CLGB may only be applied during corrective action, or during detection monitoring following corrective action, at Monitoring Points at which "measurably significant" (see §20164) evidence of the release has been determined.

(i) Decreasing the CLGB—When a detection monitoring program incorporating a CLGB is reinstated after a corrective action program has been terminated, each CLGB shall be re-evaluated during each review of WDRs or at least every five years. If the RWQCB, upon re-evaluation, determines that the concentration of a constituent of concern in ground water, surface water, or the unsaturated zone is lower than its associated concentration limit by a "measurably significant" (see §20164) amount, the concentration limit for that constituent shall be lowered to reflect current water quality.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13263 and 13267, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Change without regulatory effect amending subsections (a)(1), (a)(2) and (i) filed 5–19–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 20).

§ 20405. SWRCB—Monitoring Points and the Point of Compliance. (C15: §2550.5)

(a) For each Unit, the RWQCB shall specify in the WDRs the Point of Compliance at which the Water Standard (of §20390) applies. The Point of Compliance is a vertical surface located at the hydraulically downgradient limit of the Unit that extends through the uppermost aquifer underlying the Unit. For each Unit, the RWQCB shall specify Monitoring Points (as defined in §20164) along the Point of Compliance, and shall specify additional Monitoring Points at locations determined pursuant to §20415(b–d) at which the Water Standard under §20390 applies and at which monitoring shall be conducted.

(b) If the facility contains contiguous Units and monitoring along a shared boundary would impair the integrity of a containment or structural feature of any of the Units, the Point of Compliance may be located at the hydraulically downgradient limit of an area described by an imaginary line along the outer boundary of the contiguous Units. This provision only applies to contiguous Units that have operated or have received all permits necessary for construction and operation before 7–1–91.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13263 and 13267, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20410. SWRCB—Compliance Period. (C15: §2550.6)

(a) The RWQCB shall specify in WDRs a compliance period for each Unit. The compliance period is the number of years equal to the active life of the Unit (including any waste management activity prior to the adoption of the WDRs) plus the closure period. The compliance period is the minimum period of time during which the discharger shall conduct a water quality monitoring program subsequent to a release from the Unit.

(b) The compliance period begins anew each time the discharger initiates an evaluation monitoring program (under §20425).

(c) If the discharger is engaged in a corrective action program at the scheduled end of the compliance period specified under ¶(a), the compliance period shall be extended until the discharger can demonstrate that the Unit has been in continuous compliance with its Water Standard (under §20390) for a period of three consecutive years.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13263 and 13267, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20415. SWRCB—General Water Quality Monitoring and System Requirements. [C15: §2550.7 // T15: §17783.5(d)]

(a) The discharger shall comply with the requirements of this section for any water quality monitoring program developed to satisfy §20420, §20425, or §20430 of this article.

(b) Ground Water Monitoring System.

(1) General—Except as provided under ¶(e)(3), the discharger shall establish a ground water monitoring system for each Unit. This ground water monitoring system shall include:

(A) For All Programs—for all monitoring and response programs, a sufficient number of Background Monitoring Points (as defined in §20164) installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that represent the quality of ground water that has not been affected by a release from the Unit;

(B) For DMP—for a detection monitoring program under §20420:

1. a sufficient number of Monitoring Points (as defined in §20164) installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that represent the quality of ground water passing the Point of Compliance and to allow for the detection of a release from the Unit;

2. a sufficient number of Monitoring Points installed at additional locations and depths to yield ground water samples from the uppermost aquifer to provide the best assurance of the earliest possible detection of a release from the Unit;

3. a sufficient number of Monitoring Points and Background Monitoring Points installed at appropriate locations and depths to yield ground water samples from portions of the zone of saturation, including other aquifers, not monitored pursuant to ¶(b)(1)(B)1. and ¶(b)(1)(B)2., to provide the best assurance of the earliest possible detection of a release from the Unit;

4. a sufficient number of Monitoring Points and Background Monitoring Points installed at appropriate locations and depths to yield ground water samples from zones of perched water to provide the best assurance of the earliest possible detection of a release from the Unit; and

5. Monitoring Point locations and depths that include the zone(s) of highest hydraulic conductivity in each ground water body monitored pursuant to this subsection [i.e., under ¶(b), inclusive].

(C) For EMP—for an evaluation monitoring program under §20425:

1. a sufficient number of Monitoring Points installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that represent the quality of ground water passing the Point of Compliance and at other locations in the uppermost aquifer to provide the data needed to evaluate changes in water quality due to the release from the Unit;

2. a sufficient number of Monitoring Points and Background Monitoring Points installed at appropriate locations and depths to yield ground water samples from portions of the zone of saturation, including other aquifers, not monitored pursuant to ¶(b)(1)(C)1., to provide the data needed to evaluate changes in water quality due to the release from the Unit; and

3. a sufficient number of Monitoring Points and Background Monitoring Points installed at appropriate locations and depths to yield ground water samples from zones of perched water to provide the data needed to evaluate changes in water quality due to the release from the Unit; and

(D) For CAP—for a corrective action program under §20430:

1. a sufficient number of Monitoring Points installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that represent the quality of ground water passing the Point of Compliance and at other locations in the uppermost aquifer to provide the data needed to evaluate the effectiveness of the corrective action program;

2. a sufficient number of Monitoring Points and Background Monitoring Points installed at appropriate locations and depths to yield ground water samples from portions of the zone of saturation, including other

aquifers, not monitored pursuant to ¶(b)(1)(D)1., to provide the data needed to evaluate the effectiveness of the corrective action program; and

3. a sufficient number of Monitoring Points and Background Monitoring Points installed at appropriate locations and depths to yield ground water samples from zones of perched water to provide the data needed to evaluate the effectiveness of the corrective action program.

(2) Alternate Background Locations—The ground water monitoring system may include Background Monitoring Points that are not hydraulically upgradient of the Unit if the discharger demonstrates to the satisfaction of the RWQCB that sampling at other Background Monitoring Points will provide samples that are representative of the background quality of ground water or are more representative than those provided by the upgradient Background Monitoring Points.

(3) Drillers' Logs—Copies of drillers' logs which the Department of Water Resources requires to be submitted pursuant to §13751 of the California Water Code shall be submitted to the RWQCB.

(4) Monitoring Well Performance Standards.

(A) All monitoring wells shall be cased and constructed in a manner that maintains the integrity of the monitoring well bore hole and prevents the bore hole from acting as a conduit for contaminant transport.

(B) The sampling interval of each monitoring well shall be appropriately screened and fitted with an appropriate filter pack to enable collection of representative ground water samples.

(C) For each monitoring well, the annular space (i.e., the space between the bore hole and well casing) above and below the sampling interval shall be appropriately sealed to prevent entry of contaminants from the ground surface, entry of contaminants from the unsaturated zone, cross contamination between portions of the zone of saturation, and contamination of samples.

(D) All monitoring wells shall be adequately developed to enable collection of representative ground water samples.

(c) Surface Water Monitoring Systems.

(1) General—The discharger shall establish a surface water monitoring system to monitor each surface water body that could be affected by a release from the Unit.

(2) Each Monitored Surface Water Body—Each surface water monitoring system shall include:

(A) Background Monitoring Points—a sufficient number of Background Monitoring Points established at appropriate locations and depths to yield samples from each surface water body that represent the quality of surface water that has not been affected by a release from the Unit;

(B) For DMP—for a detection monitoring program (under §20420), a sufficient number of Monitoring Points established at appropriate locations and depths to yield samples from each surface water body that provide the best assurance of the earliest possible detection of a release from the Unit;

(C) For EMP—for an evaluation monitoring program (under §20425), a sufficient number of Monitoring Points established at appropriate locations and depths to yield samples from each surface water body that provide the data to evaluate changes in water quality due to the release from the Unit; and

(D) For CAP—for a corrective action program (under §20430), a sufficient number of Monitoring Points established at appropriate locations and depths to yield samples from each surface water body that provide the data to evaluate compliance with the Water Standard (of §20390) and to evaluate the effectiveness of the corrective action program.

(d) Unsaturated Zone Monitoring System.

(1) Except as otherwise provided in ¶(d)(5), the discharger shall establish an unsaturated zone monitoring system for each Unit.

(2) The unsaturated zone monitoring system shall include:

(A) Background Monitoring Points—a sufficient number of Background Monitoring Points established at appropriate locations and depths to yield soil-pore liquid samples or soil-pore liquid measurements that represent the quality of soil-pore liquid that has not been affected by a release from the Unit;

(B) For DMP—for a detection monitoring program (under §20420), a sufficient number of Monitoring Points established at appropriate locations and depths to yield soil-pore liquid samples or soil-pore liquid measurements that provide the best assurance of the earliest possible detection of a release from the Unit;

(C) For EMP—for an evaluation monitoring program (under §20425), a sufficient number of Monitoring Points established at appropriate locations and depths to yield soil-pore liquid samples or soil-pore liquid measurements that provide the data to evaluate changes in water quality due to the release from the Unit; and

(D) For CAP—for a corrective action program (under §20430), a sufficient number of Monitoring Points established at appropriate locations and depths to yield soil-pore liquid samples or soil-pore liquid measurements that provide the data to evaluate compliance with the Water Standard (of §20390) and to evaluate the effectiveness of the corrective action program.

(3) Background Plot—Background Monitoring Points shall be installed at a background plot having soil characteristics similar to those of the soil underlying the Unit.

(4) Alternate Methods—Liquid recovery types of unsaturated zone monitoring (*e.g., the use of lysimeters*) are required unless the discharger demonstrates to the satisfaction of the RWQCB that such methods of unsaturated zone monitoring cannot provide an indication of a release from the Unit. The RWQCB shall require complementary or alternative (non-liquid recovery or remote sensing) types of unsaturated zone monitoring to provide the best assurance of the earliest possible detection of a release from the Unit.

(5) Exemption—Unsaturated zone monitoring is required at all new Units unless the discharger demonstrates to the satisfaction of the RWQCB that there is no unsaturated zone monitoring device or method designed to operate under the subsurface conditions existent at that Unit. For a Unit that has operated or has received all permits necessary for construction and operation before 7-1-91, unsaturated zone monitoring is required unless the discharger demonstrates to the satisfaction of the RWQCB that either there is no unsaturated zone monitoring device or method designed to operate under the subsurface conditions existent at that Unit or that installation of unsaturated zone monitoring devices would require unreasonable dismantling or relocating of permanent structures.

(e) General monitoring requirements.

(1) All monitoring systems shall be designed and certified by a registered geologist or a registered civil engineer.

(2) Boring Logs—All monitoring wells and all other borings (including but not limited to gas monitoring wells) drilled to satisfy the requirements of this division shall be drilled by a licensed drilling contractor (or by a drilling crew under the direct supervision of the design engineer or engineering geologist), and shall be logged during drilling under the direct supervision of a person who is a registered geologist or a registered civil engineer, and who has expertise in stratigraphic well logging. These logs shall be submitted to the RWQCB upon completion of drilling.

(A) Soil shall be described in the geologic log in accordance with current industry-wide practices [*e.g., American Society for Testing and Materials (ASTM) Designation "D2488-93 Method for Visual Classification, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure)" for field work, with initial determinations backed up by laboratory work under ASTM Designation "D2487-93 Standard Classification of Soils for Engineering Purposes (Unified Soil Classification System)," available from ASTM, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959*].

(B) Rock shall be described in the geologic log in a manner appropriate for the purpose of the investigation.

(C) Where possible, the depth and thickness of saturated zones shall be recorded in the geologic log.

(3) Shared Systems—If a facility contains contiguous Units, separate ground water monitoring systems are not required for each such Unit if

the discharger demonstrates to the satisfaction of the RWQCB that the water quality monitoring program for each Unit will enable the earliest possible detection and measurement of a release from that Unit.

(4) QA/QC—The water quality monitoring program shall include consistent sampling and analytical procedures that are designed to ensure that monitoring results provide a reliable indication of water quality at all Monitoring Points and Background Monitoring Points. At a minimum, the program shall include a detailed description of the procedures and techniques for:

(A) sample collection, including purging techniques, sampling equipment, and decontamination of sampling equipment;

(B) sample preservation and shipment;

(C) analytical procedures; and

(D) chain of custody control.

(5) Sampling & Analytical Methods—The water quality monitoring program shall include appropriate sampling and analytical methods for ground water, surface water, and the unsaturated zone that accurately measure the concentration of each COC and the concentration or value of each Monitoring Parameter.

(6) Initial Background Sampling—For each Unit, the discharger shall collect all data necessary for selecting the appropriate data analysis methods pursuant to ¶(e)(7–9) and for establishing the background values specified pursuant to ¶(e)(10). At a minimum, this data shall include analytical data obtained during quarterly sampling of all Background Monitoring Points for a period of one year, including the times of expected highest and lowest annual elevations of the ground water surface. For a new Unit, this data shall be collected before wastes are discharged at the Unit and background soil–pore liquid data shall be collected from beneath the Unit before the Unit is constructed.

(7) Propose Data Analysis Method(s)—Based on data collected pursuant to ¶(e)(6), the discharger shall implement data analysis methods allowed in ¶(e)(8) for each COC and for each Monitoring Parameter. The data analysis methods shall be used in evaluating water quality monitoring data. The specifications for each data analysis method shall include a detailed description of the criteria to be used for determining "measurably significant" (as that term is defined in §20164) evidence of any release from the Unit and for determining compliance with the Water Standard. Each statistical test specified for a particular COC or Monitoring Parameter shall be conducted for that COC or Monitoring Parameter at each Monitoring Point. Where practical quantitation limits (PQLs) are used in any of the following data analysis methods to comply with ¶(e)(9)(E), the discharger shall identify the PQL to the RWQCB. The discharger shall:

(A) continue using the methods specified in the existing M&RP; or

(B) submit to the RWQCB, before implementing the selected methods, a comprehensive technical report, certified by an appropriately registered professional, documenting that use of the proposed data analysis methods will comply with the performance standards outlined in ¶(e)(9, 10, & 12):

1. the RWQCB shall audit selected reports submitted pursuant to this subdivision for compliance and applicability, as deemed necessary by the RWQCB; and

2. the discharger shall not change the data analysis methods developed pursuant to this subdivision until the next review/update of the M&RP, unless directed to make changes by the RWQCB; or

(C) use any water quality data analysis software the SWRCB or RWQCB deems appropriate for such use, provided that the manner of such use is consistent with the manner of usage the SWRCB or RWQCB has deemed appropriate (without the need for additional substantiation), for that software, and further provided that the discharger notifies the RWQCB before initiating such use.

(8) Allowable Data Analysis Methods—The statistical data analysis requirement in this article do not preclude the use of a particular non–statistical method which can achieve the goal of the particular monitoring program at least as well as will the most appropriate statistical method. If statistical methods cannot meet these goals, the discharger's proposed non– statistical method must achieve the goal of the particular monitoring program adequately [see ¶(e)(12)(A)1.–3.]. For those monitoring data analyses in which statistical methods are used, the discharger shall use one of the following methods:

(A) Parametric ANOVA—a parametric analysis of variance (ANOVA) followed in all instances by a multiple comparisons procedure to identify "measurably significant" (see §20164) evidence of a release from the Unit. The method shall include estimation and testing of the contrasts between each monitoring point's mean and the background mean value for each constituent or parameter;

(B) Nonparametric ANOVA—an ANOVA based on ranks followed in all instances by a multiple comparisons procedure to identify "measurably significant" (see §20164) evidence of a release from the Unit. The method shall include estimation and testing of the contrasts between each monitoring point's median and the background median values for each constituent of concern or monitoring parameter;

(C) Tolerance Interval—a tolerance or prediction interval procedure in which an interval for each COC or Monitoring Parameter is established from the distribution of the background data, and the value for each COC or Monitoring Parameter at each monitoring point is compared to the upper tolerance or prediction limit;

(D) Control Chart—a control chart approach that gives control limits for each COC or Monitoring Parameter; or

(E) Other Statistical Methods—any statistical test method submitted by the discharger including, but not limited to, any statistical method which includes a procedure to verify that there is "measurably significant" (see §20164) evidence of a release from the Unit. If the statistical test method includes a verification procedure, this procedure shall include either a single "composite" retest (i.e., a statistical analysis that augments and reanalyzes the data from the Monitoring Point that indicated a release) or shall consist of at least two "discrete" retests (i.e., statistical analyses each of which analyzes only newly–acquired data from the Monitoring Point that indicated a release). The verification procedure shall comply with the following requirements in addition to the statistical performance standards under ¶(e)(9):

1. Discrete Retest Rule—if the verification procedure consists of discrete retests, rejection of the null hypothesis for any one of the retests shall be considered confirmation of "measurably significant" (see §20164) evidence of a release;

2. Retest Sample Size—the number of additional samples collected and analyzed for use in the verification procedure shall be appropriate for the form of statistical test specified in the WDRs for that COC or Monitoring Parameter pursuant to ¶(e)(7). The number of additional samples (obtained at the indicating Monitoring Point for the indicating COC or Monitoring Parameter) shall be greater than or equal to the number of samples specified in the WDRs for that constituent or parameter pursuant to ¶(e)(12)(A);

3. 30–Day Resampling Window—if resampling at the interval identified for use in the initial statistical test pursuant to ¶(e)(12)(B) would cause the entire resampling effort to take longer than 30 days, the sampling interval for use in the verification procedure shall be reduced to ensure that all samples are collected and submitted for laboratory analysis within 30 calendar days from the time that the discharger determines "measurably significant" (see §20164) evidence of a release pursuant to §20420(g or i);

4. Data Mix (for Composite Retest)—for a verification procedure containing a composite retest, the statistical verification procedure shall be based on all data obtained from the initial sampling event combined with all data obtained during the resampling event. For a verification procedure containing discrete retests, each retest shall analyze data obtained during its respective resampling event(s) and no data shall be shared between retests;

5. Retest Effects on Type I Error Rate—the Type I error for statistical methods employing a retest procedure shall be as follows:

a. When Initial Test = Retest—in cases where the discharger proposes to use the same statistical test for both the initial test and the retest, either:

i. α for Composite Retest—for a verification procedure containing a composite retest, the statistical test method used in the verification procedure shall be conducted at a Type I error rate of no less than 0.05 for both the experiment-wise analysis (if any) and the individual Monitoring Point comparisons. Therefore, if a control chart approach is used to evaluate water quality monitoring data, the upper limit on an X-Bar or R-Chart must be set at no more than 1.645 standard deviations of the statistic plotted for a one-sided statistical comparison or at no more than 1.96 standard deviations of the statistic plotted for a two-sided statistical comparison; or

ii. α for Discrete Retest (& Original Test Too)—For a verification procedure containing discrete retests, the statistical test method used shall be the same as the method used in the initial statistical comparison. Notwithstanding any provision of ¶(e)(9), the critical value for the tests shall be chosen so that the Type I error rate for all individual monitoring point comparisons is the same, whether for an initial test or for a retest, and is equal-to-or-greater-than either

$$\frac{(1-[0.95]^{1/[M*W*S)^{0.5}} * (1/R)^{0.5}, \text{ or}}{1-(0.99)^{1/S}},$$

whichever is larger, where: M= the number of Monitoring Parameters (or COCs, as appropriate) being tested by statistical methods during that Reporting Period; W = the total number of Monitoring Points at the Unit (considering all monitored media); S = the number of times that suites of monitoring data from the Unit are subjected to initial statistical analysis within a period of six months (i.e., for Monitoring Parameter testing, S≥1, but for COC testing, S=1); and R = the number of discrete retests that are to be conducted at a Monitoring Point for a given COC or Monitoring Parameter whose initial statistical analysis, at that Monitoring Point, has indicated the presence of a release (i.e., R≥2); or

b. When Retest Differs From Initial Test Method—in cases where the discharger proposes to use a different statistical test for the composite or discrete retest than that which provided the initial indication of a release (*e.g., parametric Tolerance Limit test facility-wide, following by a parametric Prediction Limit retest for any indicating Monitoring Point*), the individual Monitoring Point error level requirements of ¶(e)(9)(B) do not apply. Nevertheless, the discharger shall demonstrate that the initial and retest method, in combination, provide:

i. a facility-wide false positive rate of ≥5%, for the indicated COC or Monitoring Parameter; and

ii. a statistical power equivalent to or better than the USEPA Reference Power Curve (see Section 5 and Appendix B of *"Statistical Analysis of Ground-Water Monitoring Data at RCRA Facilities — Addendum To Interim Final Guidance"*, USEPA Office of Solid Waste, Washington, D.C., July, 1992), which is hereby incorporated by reference.

6. Reporting—the discharger shall report to the RWQCB by certified mail the results of both the initial statistical test and the results of the verification procedure, as well as all concentration data collected for use in these tests within seven days of the last laboratory analysis of the samples collected for the verification procedure; and

7. Scope—the verification procedure shall only be performed for the constituent(s) or parameters which has shown "measurably significant" (see §20164) evidence of a release, and shall be performed for those Monitoring Points at which a release is indicated.

(9) Data Analysis Method Performance Standards—In cases where the discharger proposes to use a non-statistical data analysis method, the discharger shall demonstrate that it meets the performance standard given in the leading paragraph of ¶(e)(8). Each statistical method chosen under ¶(e)(7) for specification in the WDRs shall comply with the following performance standards for each six-month period:

(A) Fit & Performance—the statistical method used to evaluate water quality monitoring data shall be appropriate for the distribution of the COC or Monitoring Parameter to which it is applied and shall be the least likely of the appropriate methods to fail to identify a release from the Unit. If the distribution of a COC or Monitoring Parameter is shown by the discharger to be inappropriate for a normal theory test, then the data shall be either transformed so that the distribution of the transformed data is appropriate for a normal theory test or a distribution-free theory test shall be used. If the distributions for the COC or Monitoring Parameters differ, more than one statistical method may be needed;

(B) α Level—if an individual Monitoring Point comparison procedure is used to compare an individual Monitoring Point constituent concentration or Monitoring Parameter value with a concentration limit in the Water Standard or with a background Monitoring Parameter value, the test shall be done at a Type I error rate (α, as a decimal fraction) no less than 0.01. If a multiple comparisons procedure is used, the Type I experiment-wise error rate (experiment- wise α) shall be no less than 0.05; however, a Type I error rate of no less than 0.01 for individual Monitoring Point comparisons shall be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, control charts, or any method using discrete retests [for α levels applicable to the latter case, see ¶(e)(8)(E)5.b.];

(C) Control Chart Rate—if a control chart approach is used to evaluate water quality monitoring data, the specific type of control chart and its associated statistical parameter values (*e.g., the upper control limit*) shall be included in the supporting documentation under ¶(e)(7). The discharger shall use the procedure only if the discharger's supporting documentation under ¶(e)(7) shows the procedure to be protective of human health and the environment. Any control charting procedure must have a false-positive rate of no less than 1 percent for each Monitoring Point charted (*e.g., upper control limits on X-bar or R-Charts used only once every six months must be set at no more than 2.327 standard deviations of the statistic plotted for a one-sided statistical comparison or at no more than 2.576 standard deviations of the statistic plotted for a two-sided statistical comparison*);

(D) Tol. Int./Pred. Int. Rate—if a tolerance interval or a prediction interval is used to evaluate water quality monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain shall be proposed by the discharger and included in the technical documenation submitted to the RWQCB pursuant to ¶(e)(7). The discharger can use the parameters only if the documentation submitted under ¶(e)(7) shows these statistical parameters to be protective of human health and the environment. These statistical parameters shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentrations or values for each COC or Monitoring Parameter. The coverage of any tolerance interval used shall be no more than 95 percent and the confidence coefficient shall be no more than 95 percent for a six-month period. Prediction intervals shall be constructed with an experiment-wise error rate of no less than 5 percent and an individual monitoring point error rate of no less than 1 percent;

(E) Addressing Censored Data—the statistical method shall account for data below the practical quantitation limit with one or more statistical procedures that are protective of human health and the environment. Any practical quantitation limit validated pursuant to ¶(e)(7) that is used in the statistical method shall be the lowest concentration (or value) that can be reliably achieved within limits of precision and accuracy specified in the WDRs for routine laboratory operating conditions that are available to the facility. The discharger's technical report, under ¶(e)(7) shall consider the practical quantitation limits listed in Appendix IX to Chapter 14 of Division 4.5 of Title 22, California Code of Regulations (Appendix IX)

for guidance when specifying limits of precision and accuracy in the WDRs;

(F) Seasonal/Spatial Variability—if necessary, the statistical methods shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data; and

(G) Outliers—any quality control procedure that is declared for use, in the technical report under ¶(e)(7), for application to water quality data from downgradient monitoring points for a monitored medium shall also be applied to all newly-acquired background data from that medium. Any newly-acquired background monitoring datum that is rejected by an approved quality control procedure shall be maintained in the facility record but shall be excluded from use in statistical comparisons with downgradient water quality data.

(10) Background Values/Procedures—Based on the data collected pursuant to ¶(e)(6) and the data analysis methods addressed in the technical report under ¶(e)(7), the discharger shall justify the use of a procedure for determining a background value for each COC and for each Monitoring Parameter specified in the WDRs. These procedures shall be proposed for ground water, surface water, and the unsaturated zone. The discharger shall declare and substantiate one of the following methods in the technical report under ¶(e)(7):

(A) By Reference to Historical Data—a procedure for determining a background value for each constituent or parameter that does not display appreciable variation; or

(B) By Using a Formula/Procedure—a procedure for establishing and updating a background value for a constituent or parameter to reflect changes in the background water quality if the use of contemporaneous or pooled data provides the greatest power to the data analysis method for that constituent or parameter.

(11) [Reserved]

(12) Sampling Methods—For each COC and Monitoring Parameter listed in the WDRs, the discharger shall verify, in the technical report under ¶(e)(7), that the sampling methods to be used to establish background values and the sampling methods to be used for monitoring pursuant to this article are consistent with the following:

(A) Sample Size—the number and kinds of samples collected shall be appropriate for the form of data analysis employed and, in the case of statistical data analysis shall follow generally accepted statistical principles. The "sample size" (i.e., the number of water quality data points representing a given Monitoring Point or Background Monitoring Point) approved for the data analysis method shall be as large as necessary to ensure with reasonable confidence that:

1. for a detection monitoring program, a release from the Unit will be detected;

2. for an evaluation monitoring program, changes in water quality due to a release from the Unit will be recognized; and

3. for a corrective action program, compliance with the water quality protection standard and effectiveness of the corrective action program will be determined; and

(B) Data Collection & Analysis—the sampling method (including the sampling frequency and the interval of time between successive samples) shall be appropriate for the medium from which samples are taken *(e.g., ground water, surface water, and soil-pore liquid)*. For ground water, sampling shall be scheduled to include the times of expected highest and lowest elevations of the potentiometric surface. The sampling method shall assure, to the greatest extent possible, that independent samples are obtained. For ground water, the discharger can use a post-sampling purge to assure sample independence whenever the time between successive sampling events (for a given COC or Monitoring Parameter) is insufficient to assure sample independence, in which case the volume of well water to be withdrawn from the well bore for the post-sampling purge shall be determined by the same method used to determine adequate pre-sampling purging. The sampling method selected shall include collection of at least the appropriate number of new data points [pursuant to ¶(e)(12)(A)] at least semi-annually from each Monitoring Point and background monitoring point and data analysis carried out at least semi-annually. The RWQCB shall require more frequent sampling and statistical analysis than is stated in the discharger's technical report under ¶(e)(7) where necessary to protect human health or the environment.

(13) Elevation & Field Parameters—The ground water portion of the monitoring program shall include an accurate determination of the ground water surface elevation and field parameters (temperature, electrical conductivity, turbidity, and pH) at each well each time ground water is sampled.

(14) Annual Data Graphs—The discharger shall graph all analytical data from each Monitoring Point and Background Monitoring Point and shall submit these graphs to the RWQCB at least once annually, except that graphs are not required for constituents for which no new data has been collected since the previous graph submittal. Graphs shall be at a scale appropriate to show trends or variations in water quality. All graphs for a given constituent shall be plotted at the same scale to facilitate visual comparison of monitoring data. Unless the discharger receives written approval from the RWQCB to use an alternate procedure that more effectively illustrates trends or variations in the data, each graph shall represent data from one Monitoring Point or Background Monitoring Point and one Constituent of Concern or Monitoring Parameter.

(15) G.W. Flow Direction—In addition to the water quality sampling conducted pursuant to the requirements of this article, the discharger shall measure the water elevation in each well and determine ground water flow rate and direction in the uppermost aquifer and in any zones of perched water and in any additional portions of the zone of saturation monitored pursuant to ¶(b)(1) at least quarterly, including the times of expected highest and lowest elevations of the water levels in the wells.

(16) Operating Record—Water quality monitoring data collected in accordance with this article, including actual values of constituents and parameters, shall be maintained in the facility operating record. The RWQCB shall specify in the WDRs when the data shall be submitted for review.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13263 and 13267, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 20420. SWRCB—Detection Monitoring Program. (C15: §2550.8)

(a) General—A discharger required, pursuant to §20385, to establish a detection monitoring program for a Unit shall, at a minimum, comply with the requirements of this section for that Unit.

(b) Standards—The discharger subject to this section shall install water quality monitoring systems that are appropriate for detecting, at the earliest possible time, a release from the Unit, and that comply with applicable provisions of §20415.

(c) Background—The discharger shall establish a background value pursuant to §20415(e)(10) for each Monitoring Parameter specified pursuant to ¶(e) and for each Constituent of Concern under §20395.

(d) Water Standard—The RWQCB shall specify the Water Standard under §20390 in the WDRs.

(e) Monitoring Parameters—The discharger shall propose for approval by the RWQCB a list of Monitoring Parameters for each medium (ground water, surface water, and the unsaturated zone) to be monitored pursuant to ¶(i) and §20415, including a data analysis method meeting the requirements of that section for each Monitoring Parameter. The list for each monitored medium shall include those physical parameters, hazardous constituents, waste constituents, and reaction products that provide a reliable indication of a release from the Unit to that medium. In addition, for an MSW landfill, the list of monitoring parameters shall meet the requirements of SWRCB Resolution No. 93-62 (which incorporates by reference the federal requirements of 40CFR258.54). The RWQCB shall specify each list of Monitoring Parameters in the WDRs after considering the following factors:

(1) the types, quantities, and concentrations of constituents in wastes managed at the Unit;

(2) the expected or demonstrated correlation between the proposed Monitoring Parameters and the Constituents of Concern specified for the Unit under §20395;

(3) the mobility, stability, and persistence of waste constituents or their reaction products;

(4) the detectability of physical parameters, waste constituents, and reaction products; and

(5) the background values and the coefficients of variation of proposed Monitoring Parameters in ground water, surface water, and the unsaturated zone.

(f) Routine Monitoring—The discharger shall monitor [pursuant to ¶(i)] for the Monitoring Parameters listed in the WDRs pursuant to ¶(e). The RWQCB shall specify the frequencies for collecting samples and for analyzing the resulting data, pursuant to §20415(e)(12).

(g) Five-Yearly COC Monitoring—In addition to monitoring for the Monitoring Parameters specified pursuant to ¶(e), the discharger shall periodically monitor for COCs specified in the WDRs, and shall determine, pursuant to ¶(i), whether there is "measurably significant" (see definition in §20164) evidence of a release for any COC using the data analysis procedure specified pursuant to §20415(e)(7). The RWQCB shall specify in WDRs the frequencies and locations for monitoring pursuant to this paragraph after considering the degree of certainty associated with the expected or demonstrated correlation between values for Monitoring Parameters and values for the COCs. Monitoring pursuant to this paragraph shall be conducted at least every five years.

(h) Data Record & Format—The discharger shall maintain a record of water quality analytical data as measured and in a form necessary for implementing the data analysis procedure required pursuant to ¶(g) and ¶(i).

(i) Data Analysis—For each Monitoring Point, the discharger shall determine whether there is "measurably significant" (see §20164) evidence of a release from the Unit for any Monitoring Parameter (or COC) specified in the WDRs pursuant to ¶(e) at a frequency specified pursuant to ¶(f) or ¶(g).

(1) In determining whether "measurably significant" (see §20164) evidence of a release from the Unit exists, the discharger shall use the method(s) chosen pursuant to §20415(e)(7). This method(s) shall be used to compare data collected at the Monitoring Point(s) with the background water quality data, except as otherwise provided in §20400(i).

(2) Determination—The discharger shall determine whether there is "measurably significant" (see §20164) evidence of a release from the Unit at each Monitoring Point within a reasonable period of time after completion of sampling. The RWQCB shall specify in the WDRs what period of time is reasonable after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of samples.

(3) RWQCB Finding—The provisions of this section shall not preclude the RWQCB from making an independent finding that there is "measurably significant" (see §20164) evidence of a release from the Unit. If the RWQCB makes such a finding, the discharger shall comply with the provisions of this section that are required in response to "measurably significant" (see §20164) evidence of a release from the Unit.

(j) If Release Indicated—If the discharger determines pursuant to ¶(i) that there is "measurably significant" (see §20164) evidence of a release from the Unit, the discharger:

(1) Notification—shall immediately notify RWQCB staff verbally of the finding and shall provide written notification by certified mail within seven days of such determination. The notification shall, for each affected monitoring point, identify the monitoring parameters and constituents of concern that have indicated "measurably significant" (see §20164) evidence of a release from the Unit;

(2) Retest Optional—can immediately initiate the verification procedure pre-approved by the RWQCB [pursuant to §20415(e)(8)(E)] to verify that there is "measurably significant" (see §20164) evidence of a release from the Unit for a parameter or constituent which has indicated a release at a Monitoring Point; and

(3) Next Step—immediately following detection of a release [or after completing the retest under ¶(j)(2)], shall comply with the requirements of ¶(k).

(k) Responding to Release Discovery—If a verification procedure, performed pursuant to ¶(j)(2), confirms that there is "measurably significant" (see §20164) evidence of a release from the Unit or if the discharger does not resample the discharger shall perform the following:

(1) Non-Statistical COC Scan—if the detection was made based upon sampling and analysis for Monitoring Parameters [under ¶(f)], immediately sample all Monitoring Points in the affected medium at that Unit and determine the concentration of all COC. Because this COC scan does not involve statistical testing, the discharger need collect and analyze only a single water sample from each Monitoring Point in the affected medium. The RWQCB can approve an appropriate subset of Monitoring Points to be sampled for all COCs, based upon the hydrogeologic conditions at the Unit;

(2-4) [Reserved.];

(5) Amended ROWD Proposing EMP—within 90 days of determining "measurably significant" (see §20164) evidence of a release, submit to the RWQCB an amended report of waste discharge to establish an evaluation monitoring program meeting the provisions of §20425. The report shall include the following information:

(A) COC Concentrations—the maximum concentration of each COC at each Monitoring Point as determined during the most recent COC sampling event [i.e., under ¶(g) or ¶(k)(1)];

(B) Proposed Monitoring System Changes—any proposed changes to the water quality monitoring systems at the Unit necessary to meet the provisions of §20425;

(C) Proposed Monitoring Changes—any proposed additions or changes to the monitoring frequency, sampling and analytical procedures or methods, or statistical methods used at the Unit necessary to meet the provisions of §20425; and

(D) Proposed Delineation Approach—a detailed description of the measures to be taken by the discharger to assess the nature and extent of the release from the Unit;

(6) Submit Initial EFS—within 180 days of determining measurably significant evidence of a release, submit to the RWQCB an engineering feasibility study for a corrective action program necessary to meet the requirements of §20430. At a minimum, the feasibility study shall contain a detailed description of the corrective action measures that could be taken to achieve background concentrations for all Constituents of Concern; and

(7) Optional Demonstration (That Unit Is Not At Cause)—if the discharger determines, pursuant to ¶(i), that there is "measurably significant" (see §20164) evidence of a release from the Unit at any Monitoring Point, the discharger may demonstrate that a source other than the Unit caused the evidence of a release or that the evidence is an artifact caused by an error in sampling, analysis, or statistical evaluation or by natural variation in the ground water, surface water, or the unsaturated zone. The discharger may make a demonstration pursuant to this subsection in addition to or in lieu of submitting both an amended report of waste discharge pursuant to ¶(k)(5) and an engineering feasibility study pursuant to ¶(k)(6); however, the discharger is not relieved of the requirements specified in ¶(k)(5) and ¶(k)(6) unless the demonstration made pursuant to this subsection successfully shows that a source other than the Unit caused the evidence of a release or that the evidence resulted from error in sampling, analysis, or evaluation, or from natural variation in ground water, surface water, or the unsaturated zone. In making a demonstration pursuant to this subsection, the discharger shall:

(A) Notification of Intent—within seven days of determining "measurably significant" (see §20164) evidence of a release, notify the RWQCB by certified mail that the discharger intends to make a demonstration pursuant to this subsection [¶(k)(7)];

(B) Demonstration Due Date—within 90 days of determining "measurably significant" (see §20164) evidence of a release, submit a report to the RWQCB that demonstrates that a source other than the Unit caused the evidence, or that the evidence resulted from error in sampling, analysis, or evaluation, or from natural variation in ground water, surface water, or the unsaturated zone;

(C) Amended ROWD—within 90 days of determining "measurably significant" (see §20164) evidence of a release, submit to the RWQCB an amended report of waste discharge to make any appropriate changes to the detection monitoring program; and

(D) DMP Continues—continue to monitor in accordance with the detection monitoring program established pursuant to this section.

(l) Changes in Response to Other Problems—If the discharger determines that there is significant physical evidence of a release, as described in §20385(a)(3), or that the detection monitoring program does not satisfy the requirements of this section, the discharger shall:

(1) notify the RWQCB by certified mail within 7 days of such determination; and

(2) within 90 days of such determination, submit an amended report of waste discharge to make any appropriate changes to the program.

(m) Changes By RWQCB—Any time the RWQCB determines that the detection monitoring program does not satisfy the requirements of this section the RWQCB shall send written notification of such determination to the discharger by certified mail, return receipt requested; the discharger shall, within 90 days after receipt of such notification by the RWQCB, submit an amended report of waste discharge to make any appropriate changes to the program.

(n) [Reserved.]

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13263 and 13267, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20425. SWRCB—Evaluation Monitoring Program. (C15: §2550.9)

(a)(1) General—A discharger required pursuant to §20385 to establish an evaluation monitoring program for a Unit shall, at a minimum, comply with the requirements of this section for that Unit.

(2) Standards—The evaluation monitoring program shall be used to assess the nature and extent of the release from the Unit and to design a corrective action program meeting the requirements of §20430.

(b) 90 Days To Delineate Release—The discharger shall collect and analyze all data necessary to assess the nature and extent of the release from the Unit. This assessment shall include a determination of the spacial distribution and concentration of each COC throughout the zone affected by the release. The discharger shall complete and submit this assessment within 90 days of establishing an evaluation monitoring program. For MSW landfills, the discharger shall comply with the additional notification and monitoring system requirements incorporated by reference into SWRCB Resolution No. 93–62, regarding notification and monitoring relative to offsite or potential off–site migration of waste constituents [see §§258.55(g)(1)(ii & iii) of 40CFR258].

(c) 90 Days to Update EFS—Based on the data collected pursuant to ¶(b) and ¶(e), the discharger shall update the engineering feasibility study for corrective action required pursuant to §20420(k)(6). The discharger shall submit this updated engineering feasibility study to the RWQCB within 90 days of establishing an evaluation monitoring program.

(d) 90 Days to Amend ROWD—Based on the data collected pursuant to ¶(b) and on the engineering feasibility study submitted pursuant to ¶(c), the discharger shall submit an amended report of waste discharge to establish a corrective action program meeting the requirements of §20430. The discharger shall submit this report to the RWQCB within 90 days of establishing an evaluation monitoring program.

(1) MSW Landfills—For MSW landfills, the discharger shall meet the additional federal notification requirements incorporated by reference by SWRCB Resolution No. 93–62 [see 40CFR258.56(d)].

(2) Minimum ROWD Update—This report shall at a minimum include the following information:

(A) Delineation of Release—a detailed assessment of the nature and extent of the release from the Unit;

(B) Water Standard—a proposed Water Standard under §20390, including any proposed CLGBs under §20400, and all data necessary to justify each such limit;

(C) Corrective Action Measures—a detailed description of proposed corrective action measures that will be taken to achieve compliance with the Water Standard proposed for a corrective action program; and

(D) Monitoring Plan—a plan for a water quality monitoring program that will demonstrate the effectiveness of the proposed corrective action.

(3) Coordinated Landfill Gas Control—For landfills at which the information submitted under ¶(d) indicates that the release likely involves landfill gas, the RWQCB shall notify and shall coordinate, as appropriate, with the EA and (as appropriate) the CIWMB in developing those aspects of the corrective action program involving the design, installation, and operation of the landfill–gas control and monitoring systems at the Unit, such that the resulting gas control program satisfies the needs of all agencies concerned. [Note: the CIWMB's gas control regulations are in Article 6, Subchapter 4, Chapter 3 (§20920 et seq.)]

(e) Ongoing Monitoring—In conjunction with the assessment conducted pursuant to ¶(b), and while awaiting final approval of the amended report of waste discharge, submitted pursuant to ¶(d), the discharger shall monitor ground water, surface water, and the unsaturated zone to evaluate changes in water quality resulting from the release from the Unit. In conducting this monitoring, the discharger shall comply with the following requirements:

(1) EMP Monitoring Points—the discharger shall install water quality monitoring systems that are appropriate for evaluation monitoring and that comply with the provisions of §20415. These water quality monitoring systems can include all or part of existing monitoring systems;

(2) EMP Monitoring Parameters—the discharger shall propose for approval by the RWQCB a list of Monitoring Parameters for each medium (ground water, surface water, and the unsaturated zone) to be monitored pursuant to §20415. The list for each medium shall include all hazardous constituents that have been detected in that medium and those physical parameters, waste constituents, and reaction products that provide a reliable indication of changes in water quality resulting from any release from the Unit to that medium. For MSW landfills, the list of Monitoring Parameters must also meet the federal requirements incorporated by reference into SWRCB Resolution No. 93–62 [see §258.54(a) and §258.55(a) of 40CFR258]. The RWQCB shall specify each list of Monitoring Parameters in the WDRs after considering the following factors:

(A) the types, quantities, and concentrations of COCs in wastes managed at the Unit;

(B) information that demonstrates, to the satisfaction of the RWQCB, a sufficient correlation between the proposed Monitoring Parameters and the COCs specified for the Unit;

(C) the mobility, stability, and persistence of COCs [i.e., waste constituents and their (known or anticipated) reaction products];

(D) the detectability of COCs and of monitored physical parameters; and

(E) the background values and the coefficients of variation of proposed Monitoring Parameters in ground water, surface water, and the unsaturated zone;

(3) Monitoring Parameter Analyses—the discharger shall monitor for the Monitoring Parameters listed in the WDRs pursuant to ¶(e)(2). The discharger shall use data analysis methods and frequencies for collecting samples and for conducting data analyses that comply with §20415(e)(7) for evaluating changes in water quality due to the release from the Unit;

(4) Five–Yearly COC Monitoring—in addition to monitoring for the Monitoring Parameters specified pursuant to ¶(e)(3), at least every five years, the discharger shall periodically monitor for all constituents of concern specified in the WDRs to evaluate changes in water quality due

to the release from the Unit. The discharger shall use data analysis methods for conducting data anlsyses that comply with §20415(e)(7) for evaluating changes in water quality due to the release from the Unit;

(5) Data Records & Format—the discharger shall conduct water quality monitoring for each Monitoring Parameter and each COC in accordance with §20415(e)(12). The discharger shall maintain a record of water quality analytical data as measured and in a form necessary for the evaluation of changes in water quality due to a release from the Unit;

(6) [Reserved.]; and

(7) Note and Report Changes—while awaiting final approval of an amended report of waste discharge [submitted under ¶(e)] to establish a corrective action program, the discharger shall evaluate all water quality data obtained pursuant to ¶(e) with respect to the design criteria for the corrective action program. If the evaluation indicates that the plan for corrective action is insufficient, the discharger shall:

(A) notify the RWQCB by certified mail within 7 days of such determination; and

(B) within 90 days of such determination, submit for approval by the RWQCB any appropriate changes to the amended report of waste discharge.

(f) Optional Demonstration—The discharger may demonstrate that a source other than the Unit caused the evidence of a release or that the evidence is an artifact caused by an error in sampling, analysis, or statistical evaluation, or by natural variation in ground water, surface water, or the unsaturated zone. Upon a successful demonstration the RWQCB shall specify that the discharger shall reinstitute a detection monitoring program meeting the requirements of §20420. In making a demonstration under this subsection, the discharger shall:

(1) Notification—notify the RWQCB by certified mail that the discharger intends to make a demonstration pursuant to this subsection;

(2) Submit Demonstration Report—submit a report to the RWQCB that demonstrates that a source other than the Unit caused the evidence of a release or that the evidence resulted from error in sampling, analysis, or evaluation, or from natural variation in ground water, surface water, or the unsaturated zone;

(3) Submit Amended ROWD—submit to the RWQCB an amended report of waste discharge to reinstitute a detection monitoring program for the Unit. This report shall propose all appropriate changes to the monitoring program; and

(4) Continue EMP Monitoring—continue to monitor in accordance with the evaluation monitoring program established pursuant to this section.

(g) Interim CAMs—The RWQCB shall require interim corrective action measures where necessary to protect human health or the environment.

(h) Discharger-Initiated EMP Changes—If the discharger determines that the evaluation monitoring program does not satisfy the requirements of this section, the discharger shall, within 90 days, submit an amended report of waste discharge to make any appropriate changes to the program.

(i) RWQCB-Initiated EMP Changes—Any time the RWQCB determines that the evaluation monitoring program does not satisfy the requirements of this section, the RWQCB shall send written notification of such determination to the discharger by certified mail, return receipt requested. The discharger shall, within 90 days of such notification by the RWQCB, submit an amended report of waste discharge to make appropriate changes to the program.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13263, 13267 and 13304 Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20430. SWRCB—Corrective Action Program. (C15: §2550.10)

(a) General—A discharger required pursuant to §20385 to establish a corrective action program for a Unit shall, at a minimum, comply with the requirements of this section for that Unit.

(b) Standards—The discharger shall take corrective action to achieve the following goals: to remediate releases from the Unit; to ensure that the discharger achieves compliance with the Water Standard adopted under §20390 for that Unit. The RWQCB shall specify the Water Standard for corrective action [including any concentration limits greater than background, under §20400(c–g)] in the WDRs.

(c) Scope of Actions—The discharger shall implement corrective action measures that ensure that COCs achieve their respective concentration limits at all Monitoring Points and throughout the zone affected by the release, including any portions thereof that extend beyond the facility boundary, by removing the waste constituents or treating them in place. The discharger shall take other action approved by the RWQCB to prevent noncompliance with those limits due to a continued or subsequent release from the Unit, including but not limited to, source control. The WDRs shall specify the specific measures that will be taken.

(d) Monitoring—In conjunction with the corrective action measures, the discharger shall establish and implement a water quality monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program can be based on the requirements for an evaluation monitoring program (under §20425), and shall be effective in determining compliance with the Water Standard (under §20390) and in determining the success of the corrective action measures pursuant to ¶(c).

(e) Compliance Schedule—Corrective action measures taken pursuant to this section shall be initiated and completed by the discharger within a period of time specified by the RWQCB in the WDRs.

(f) Terminating Measures—Corrective action measures taken pursuant to ¶(c)(*e.g., pumping and treatment of ground water*) may be terminated when the discharger demonstrates to the satisfaction of the RWQCB that the concentrations of all COCs are reduced to levels below their respective concentration limits throughout the entire zone affected by the release.

(g) Demonstrating Completion of CAP—After suspending the corrective action measures, pursuant to ¶(f), the Unit shall implement the remaining portions of the Corrective Action Program until an approved Detection Monitoring Program meeting the requirements of §20420 has been incorporated into WDRs and until the discharger demonstrates to the satisfaction of the RWQCB that the Unit is in compliance with the Water Standard (under §20390). If the Unit is an MSW landfill, then this demonstration shall meet the federal requirements incorporated by reference in SWRCB Resolution No. 93–62 [see §258.58(c) of 40CFR258], in lieu of meeting the requirements of ¶(g)(1 & 2). For all other Units, this demonstration shall be based on the following criteria and requirements:

(1) the concentration of each COC in each sample from each Monitoring Point in the Corrective Action Program for the Unit must have remained at or below its respective concentration limit during a proof period of at least one year, beginning immediately after the suspension of corrective action measures; and

(2) the individual sampling events for each Monitoring Point must have been evenly distributed throughout the proof period and have consisted of no less than eight sampling events per year per Monitoring Point.

(h) Semi–Annual Progress Reports—The discharger shall report, in writing, to the RWQCB on the effectiveness of the corrective action program. The discharger shall submit these reports at least semi–annually.

More frequent reporting shall be required by the RWQCB as necessary to ensure the protection of human health or the environment.

(i) Discharger–Initiated CAP Changes—If the discharger determines that the corrective action program does not satisfy the provisions of this section, the discharger shall, within 90 days of making the determination, submit an amended report of waste discharge to make appropriate changes to the program.

(j) RWQCB–Initiated CAP Changes—Any time the RWQCB determines that the corrective action program does not satisfy the requirements of this section, the discharger shall, within 90 days of receiving written notification of such determination by the RWQCB, submit an amended report of waste discharge to make appropriate changes to the program.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13263, 13267 and 13304, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20435. SWRCB—Unsaturated Zone Monitoring and Response Provisions for Land Treatment Units (LTUs). (C15: §2550.11)

(a) General—A discharger required pursuant to the provisions of this article to conduct unsaturated zone monitoring at a land treatment unit (LTU) shall comply with the unsaturated zone monitoring and response provisions of this section in conjunction with all other unsaturated zone monitoring and response provisions of this article.

(b) Monitor Below Zone—The discharger shall monitor the soil and soil–pore liquid to determine whether COCs migrate out of the treatment zone.

(c) Mon. Pars. & COCs—The RWQCB shall specify the Monitoring Parameters and Constituents of Concern to be monitored in the WDRs. The Monitoring Parameters to be monitored are those specified pursuant to §20420(e)for detection monitoring and §20425(e)(2) for evaluation monitoring. The COCs to be monitored are those specified in the Water Standard specified under §20390 for each monitoring and response program. The COCs to be monitored shall include the constituents, including hazardous constituents, that must be degraded, transformed, or immobilized in the treatment zone of the LTU.

(d) [Reserved.]

(e) Monitoring Below Treatment Zone—The discharger shall install an unsaturated zone monitoring system that includes soil monitoring using soil cores and soil–pore liquid monitoring using appropriate devices such as lysimeters capable of acquiring soil–pore liquid samples. The unsaturated zone monitoring system shall consist of a sufficient number of sampling points at appropriate locations and depths to yield samples that:

(1) represent the quality of background soil–pore liquid quality and the chemical makeup of soil that has not been affected by a release from the treatment zone; and

(2) indicate the quality of soil–pore liquid and the chemical makeup of the soil below the treatment zone.

(f) Background—The discharger shall establish a background value for each monitoring parameter and each COC to be monitored under ¶(c). The discharger shall propose, for approval by the RWQCB, the background values for each Monitoring Parameter and each COC or the procedures to be used to calculate the background values according to the provisions of §20415(e)(10). The RWQCB shall specify the background values or procedures in WDRs according to §20415(e)(10).

(g) Background Plot—Background soil values may be based on a one–time sampling at a background plot having characteristics similar to those of the treatment zone. For new land treatment units, background soil values shall include data from sampling at the proposed plot for the unit.

(h) Initial Background Data—Background soil–pore liquid values shall be based on at least quarterly sampling for one year at a background plot having characteristics similar to those of the treatment zone. For new land treatment units, background soil–pore liquid values shall include data from sampling at the proposed plot for the Unit.

(i) Data Format—The discharger shall express all background values in a form necessary for the determination of "measurably significant" (see §20164) increases pursuant to ¶(n).

(j) Performance Standard—In taking samples used in the determination of all background values, the discharger shall use an unsaturated zone monitoring system that complies with ¶(e)(1).

(k) Timing & Frequency—The discharger shall conduct soil monitoring and soil–pore liquid monitoring immediately below the treatment zone. The RWQCB shall specify the frequency and timing of soil and soil–pore liquid monitoring in the WDRs after considering all other monitoring provisions of this article, the frequency, timing, and rate of waste application, the soil hydraulic conductivity, and the maximum anticipated rate of migration. The discharger shall express the results of soil and soil–pore liquid monitoring in a form necessary for the determination of "measurably significant" (see §20164) increases pursuant to ¶(n).

(l) Propose Procedures—The discharger shall propose, for approval by the RWQCB, consistent sampling and analysis procedures that are designed to ensure sampling results that provide a reliable indication of soil–pore liquid quality and the chemical makeup of the soil below the treatment zone. At a minimum, the discharger shall implement the approved procedures and techniques for:

(1) sample collection;

(2) sample preservation and shipment;

(3) analytical procedures; and

(4) chain of custody control.

(m) Testing—The discharger shall determine whether there is a "measurably significant" (see §20164) increase below the treatment zone using a statistical method that provides reasonable confidence that migration from the treatment zone will be identified. The discharger shall propose each statistical method in accordance with the provisions of this subsection and pursuant to the provisions of §20415(e)(7). The RWQCB shall specify each statistical method pursuant to §20415(e)(7) that the RWQCB finds:

(1) is appropriate for the distribution of the data used to establish background values; and

(2) provides a reasonable balance between the probability of falsely identifying migration from the treatment zone and the probability of failing to identify real migration from the treatment zone.

(n) Coordinate w/DMP Sampling—The discharger shall determine whether there is a "measurably significant" (see §20164) change over background values for each Monitoring Parameter [or, on a five–yearly basis under §20420(g), for each COC] to be monitored below the treatment zone each time the discharger conducts soil monitoring and soil–pore liquid monitoring under ¶(k).

(o) Data Analysis—In determining whether a "measurably significant" (see §20164) increase has occurred, the discharger shall compare the value of each parameter or constituent, using data obtained pursuant to ¶(n), to the background value for that parameter or constituent by using an appropriate statistical procedure specified in the WDRs pursuant to this section.

(p) Timing of Data Analysis—The discharger shall determine whether there has been a "measurably significant" (see §20164) increase below the treatment zone within a reasonable time period after completion of sampling. The RWQCB shall specify this time period in the WDRs after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of soil and soil–pore liquid samples.

(q) Discovery of a Release—If the discharger determines pursuant to ¶(n), that there has been a "measurably significant" (see §20164) increase in the value of a hazardous constituent below the treatment zone the discharger shall:

(1) report to the RWQCB describing the full extent of the dischargers findings, including the identification of all constituents that have shown

a "measurably significant" (see §20164) increase, within 72 hours of making such a determination; and

(2) submit written notification of this finding to the RWQCB within seven days of making such a determination.

(r) Release Response Options—Upon receiving notice pursuant to ¶(q) or upon the independent confirmation by the RWQCB, the RWQCB shall order the discharger to cease operating the LTU. The discharger shall not resume operating the LTU and shall close the LTU unless one of the following actions is taken:

(1) Cleanup, and Change Practices—the discharger completes appropriate removal or remedial actions to the satisfaction of the RWQCB and the discharger submits to the RWQCB and the RWQCB approves, an amended report of waste discharge to modify the operating practices at the unit to maximize the success of degradation, immobilization, or transformation processes in the treatment zone; or

(2) Cleanup, Line Unit, and Change Practices—the discharger completes appropriate removal or remedial actions, submits to the RWQCB and the RWQCB approves, an amended report of waste discharge to modify the operating practices at the unit to maximize the success of degradation, immobilization, or transformation processes in the treatment zone, and equips the land treatment unit with liners, and a leachate collection and removal system that satisfy the provisions of §20330 and §20340.

(s) Schedule of Compliance—All actions taken by a discharger pursuant to ¶(r)(1 or 2) shall be completed within a time period specified by the RWQCB, which shall not exceed 18 months after the RWQCB receives notice pursuant to ¶(q)(1). If the actions are not completed within this time period, the LTU shall be closed, unless granted an extension by the RWQCB due to exceptional circumstances beyond the control of the discharger.

(t) Optional Demonstration—If the discharger determines pursuant to ¶(n) that there is a "measurably significant" (see §20164) increase of hazardous constituents below the treatment zone, the discharger may demonstrate that the increase resulted from an error in sampling, analysis, or evaluation. While the discharger may make a demonstration pursuant to this subsection in addition to or in lieu of the requirements of ¶(r)(1 or 2), the discharger is not relieved of the requirements of (r and s) unless the demonstration made pursuant to this subsection successfully shows that the increase resulted from an error in sampling, analysis, or evaluation. In making a demonstration pursuant to this subsection, the discharger shall:

(1) Notification—notify the RWQCB of this finding in writing within seven days of determining a "measurably significant" (see §20164) increase beneath the treatment zone that the discharger intends to make a demonstration pursuant to this subsection;

(2) Demonstration Submittal Deadline—within 90 days of such determination, submit a report to the RWQCB demonstrating that the increase resulted from error in sampling, analysis, or evaluation;

(3) Amended ROWD Submittal Deadline—within 90 days of such determination, submit to the RWQCB an amended report of waste discharge to make any appropriate changes to the unsaturated zone monitoring program for the LTU; and

(4) Continue Monitoring—continue to monitor in accordance with the unsaturated zone monitoring program established pursuant to this section.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13263, 13267 and 13304, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

Article 2. [§20480–§20499 Reserved by SWRCB]

Subchapter 4. Criteria for Landfills and Disposal Sites

The criteria promulgated by the CIWMB within Articles 1, 3, and 4 of this Subchapter, apply to solid waste landfills, but may be applied to disposal sites as required by the EA.

Article 1. CIWMB—Operating Criteria

§ 20510. CIWMB—Disposal Site Records. (T14: section 17258.29,17636,17637,17638,17639)

(a) Each site operator shall maintain records of weights or volumes accepted in a form and manner approved by the EA. Such records shall be submitted to the EA upon request, accurate to within 10 percent and adequate for overall planning purposes and forecasting the rate of site filling.

(b) Each site operator shall maintain records of excavations which may affect the safe and proper operation of the site or cause damage to adjoining properties.

(c) Each site operator shall maintain a daily log book or file of the following information: fires, landslides, earthquake damage, unusual and sudden settlement, injury and property damage accidents, explosions, receipt or rejection of unpermitted wastes, flooding, and other unusual occurrences.

(d) Each site operator shall maintain a record of personnel training as required in §20610.

(e) Each site operator shall maintain a copy of written notification to the EA, local health agency, and fire authority of names, addresses and telephone numbers of the operator or responsible party of the site as required in §20615.

(f) Disposal site records, including MSWLF unit records, shall be available for inspection by authorized representatives of the EA, the local health agency and the CIWMB during normal business hours and retained near the site in an operating record or in an alternative location approved by the EA.

(g) Each site shall maintain records for the Disposal Reporting System as required by Title 14 California Code of Regulations section 18800 et seq.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New subchapter 4, article 1 (sections 20510–20660) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. New subsection (g) filed 9–21–2005; operative 1–1–2006 (Register 2005, No. 38).

§ 20515. CIWMB—MSWLF Unit Records. (T14:§17258.29, §18257)

(a) The owner or operator of a MSWLF unit must record the following information as it becomes available:

(1) Any location restriction demonstration required under §20270;

(2) Inspection records, training procedures, and notification procedures required in §20870;

(3) Gas monitoring results from monitoring and any remediation plans required by §20919 of this Subchapter;

(4) Closure and postclosure maintenance plans as required by §21780, notice of intent to close the unit as described in §21135, notice of certification of closure as required by §21880, deed notation as required by §21170, demonstration of release from postclosure maintenance required by §21180, and any gas monitoring, testing, or analytical data as required by 40 CFR §258.61; and

(5) Any cost estimates and financial assurance documentation required by §§22221, 22226, 21820, and 21840.

(6) Any information demonstrating compliance with the small community exemption as required by 40 CFR section 258.1(f)(2).

(b) The owner/operator must notify the EA when the documents from ¶(a) of this section have been placed in or added to the operating record, unless an alternative frequency is approved as specified in ¶(c) and all information contained in the operating record must be furnished upon request to the EA.

(c) The EA may set alternative schedules for recordkeeping and notification requirements as specified in ¶(a) and ¶(b) of this section, except for the notification requirements in §20270.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 40508 and 43103, Public Resources Code; and Title 40, Code of Federal Regulations, Section 258.29.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20517. CIWMB—Documentation of Enforcement Agency (EA) Approvals, Determinations and Requirements. (new)

Approvals, determinations and other requirements the EA is authorized to make under this Subchapter shall be documented in writing to the operator and placed in the operating record by the operator.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 40508 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20520. CIWMB—Signs. (T14:§17656,17657)

(a) Each point of access from a public road shall be posted with an easily visible sign indicating the facility name, and other pertinent information as required by the EA.

(b) If the site is open to the public, there shall be an easily visible sign at the primary entrance of the site indicating the name of the site operator, the operator's telephone number, and, hours of operation; an easily visible sign at an appropriate point shall indicate the schedule of charges and the general types of materials which either (1) WILL be accepted or (2) WILL NOT be accepted.

(c) If the site is open to the public, there shall be easily visible road signs and/or traffic control measures which direct traffic to the active face and other areas where wastes or recyclable materials will be deposited.

(d) Additional signs and/or measures may be required at a disposal site by the EA to protect personnel and public health and safety.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20530. CIWMB—Site Security. (T14:§17658)

The site shall be designed to discourage unauthorized access by persons and vehicles by using a perimeter barrier or topographic constraints. Areas within the site where open storage or ponding of hazardous materials occurs shall be separately fenced or otherwise secured as determined by the EA. The EA may also require that other areas of the site be fenced to create an appropriate level of security.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20540. CIWMB—Roads. (T14:§17659,17660)

Roads within the permitted facility boundary shall be designed to minimize the generation of dust and the tracking of material onto adjacent public roads. Such roads shall be kept in safe condition and maintained such that vehicle access and unloading can be conducted during inclement weather.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20550. CIWMB—Sanitary Facilities. (T14:§17666)

Sanitary facilities, consisting of an adequate number of toilets and handwashing facilities, shall be available to personnel at or in the immediate vicinity of the site as approved by the EA.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20560. CIWMB—Drinking Water Supply. (T14:§17667)

Safe and adequate drinking water for the site personnel shall be available.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20570. CIWMB—Communications Facilities. (T14:§17668)

Each site shall have communication facilities available to site personnel to allow quick response to emergencies.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20580. CIWMB—Lighting. (T14:§17669)

Where operations are conducted during hours of darkness, the site and/or equipment shall be equipped with adequate lighting as approved by the enforcement agency to ensure safety and to monitor the effectiveness of operations.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20590. CIWMB—Personnel Health and Safety. (T14:§17670)

Operating and maintenance personnel shall wear and use appropriate safety equipment as required by the EA.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20610. CIWMB—Training. (T14:§17672)

Personnel assigned to operate the site shall be adequately trained in subjects pertinent to the site operation and maintenance, including requirements of this chapter, hazardous materials recognition and screening, and heavy equipment operations, with emphasis on safety, health, environmental controls and emergency procedures. A record of such training shall be placed in the operating record.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20615. CIWMB—Supervision. (T14:§17671, 17673)

The site operator shall provide adequate supervision of a sufficient number of qualified personnel to ensure proper operation of the site in compliance with all applicable laws, regulations, permit conditions and other requirements. The operator shall notify the enforcement agency and local health agency in writing of the names, addresses, and telephone number of the operator or responsible party. A copy of the written notification shall be placed in the operating record.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20620. CIWMB—Site Attendant. (T14:§17674)

Any disposal site open to the public shall have an attendant present during public operating hours or the site shall be inspected by the operator on a regularly scheduled basis, as determined by the enforcement agency.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20630. CIWMB—Confined Unloading. (T14:§17676)

Unloading of solid wastes shall be confined to as small an area as possible to accommodate the number of vehicles using the area without resulting in traffic, personnel, or public safety hazards. Waste materials shall normally be deposited at the toe of the fill, or as otherwise approved by the enforcement agency.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20640. CIWMB—Spreading and Compacting. (T14:§17677)

Solid waste shall be spread and compacted in layers with repeated passages of the landfill equipment to minimize voids within the cell and maximize compaction. The loose layer shall not exceed a depth of approximately two feet before compaction. Spreading and compacting shall be accomplished as rapidly as practicable, unless otherwise approved by the enforcement agency.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20650. CIWMB—Grading of Fill Surfaces. (T14:§17710)

Covered surfaces of the disposal area shall be graded to promote lateral runoff of precipitation and to prevent ponding. Grades shall be established of sufficient slopes to account for future settlement of the fill surface. Other effective maintenance methods may be allowed by the enforcement agency.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20660. CIWMB—Stockpiling. (T14:§17680)

Cover material or native material unsuitable for cover, stockpiled on the site for use or removal, shall be placed so as not to cause problems or interfere with unloading, spreading, compacting, access, safety, drainage, or other operations.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

Article 2. Alternative Daily Cover Material and Beneficial Reuse

§ 20670. CIWMB—Availability of Cover Material. (T14:§17681)

A sufficient quantity of cover material of a suitable quality to meet the requirements of this Subchapter shall be available. If on-site sources of cover material are insufficient, substantiation must be shown to the EA that an adequate supply of cover material will be provided.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New article 2 (sections 20670–20705) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of article heading filed 5–24–2004; operative 7–23–2004 (Register 2004, No. 22).

§ 20680. CIWMB—Daily Cover. [T14:§17682, 17258.21]

(a) Except as provided in ¶(b), (f) and §20690, the owners or operators of all municipal solid waste landfill units shall cover disposed solid waste with a minimum of six inches of compacted earthen material at the end of each operating day, or at more frequent intervals if necessary, to control vectors, fires, odors, blowing litter, and scavenging. For the purposes of this section, the operating day shall be defined as the hours of operation specified in the solid waste facility permit, and may extend for more than 24 hours if operations are continuous.

(b) The EA, with concurrence by the CIWMB, may grant a temporary waiver from the requirements of ¶(a) if the owner or operator demonstrates that there are extreme seasonal climatic conditions that make meeting such requirements impractical.

(c) Earthen material or alternative cover materials of alternative thickness shall be placed over all surfaces of disposed solid waste for other than municipal solid waste landfill units, as required by the EA to control vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment.

(d) For the purposes of this section, earthen material shall include contaminated soil as defined in Title 14, California Code of Regulations, §17361(b), and soil with contaminants other than petroleum hydrocarbons which has been approved for use as landfill daily cover by the RWQCB, and any other governmental agencies from which approval is required, such as the Department of Toxic Substances Control and Air Pollution Control District or Air Quality Management District.

(e) For waste classification, composition, and liquid percolation requirements of daily cover, refer to the SWRCB requirements set forth in §20705 of this article.

(f) For those MSWLFs that accept for disposal 20 tons or less of municipal solid waste per day based on an annual average, the EA, with concurrence by the Board, may establish alternative frequencies for daily cover after consideration of the unique characteristics of small communities, climatic and hydrogeologic conditions, and protection of human health and the environment. Any proposal to allow an alternative frequency shall be available for public review for a minimum of 30 days to allow affected parties the opportunity to comment. Documentation of the considerations, public comment and Board concurrence for any alternative frequency shall be placed in the operating record. The Executive Director or the EA may condition, limit, suspend, or terminate an operator's use of an alternative monitoring frequency if it is determined that the alternative frequency would cause harm to public health and safety, or the environment.

NOTE: Authority cited: Sections 40502, 42245, 43020, 43021 and 43030, Public Resources Code. Reference: Sections 40508, 43020, 43021 and 43103, Public Resources Code; and Title 40, Code of Federal Regulations, Section 258.21.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment filed 11–5–97; operative 11–5–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 45).
3. Amendment of subsections (a) and (c), new subsection (f) and amendment of NOTE filed 10–28–98 as an emergency; operative 10–28–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–25–99 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsections (a) and (c), new subsection (f) and amendment of NOTE refiled 2–25–99 as an emergency; operative 2–25–99 (Register 99, No. 9). A Certificate of Compliance must be transmitted to OAL by 6–25–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 2–25–99 order transmitted to OAL 6–24–99 and filed 7–12–99 (Register 99, No. 29).

§ 20685. CIWMB—Performance Standards. [T14:§17683]

NOTE: Authority Cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Renumbering of former section 20685 to new section 20695 filed 11–5–97; operative 11–5–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 45).

§ 20686. Beneficial Reuse.

Beneficial reuse of solid wastes at a solid waste landfill shall include, but not be limited to, the following: alternative daily cover, alternative intermediate cover, final cover foundation layer, liner operations layer, leachate and landfill gas collection system, construction fill, road base, wet weather operations pads and access roads, and soil amendments for erosion control and landscaping. Alternative daily cover reuse shall comply with the requirements of §20690. Alternative intermediate cover reuse shall comply with the requirements of §20700. Other beneficial reuse shall comply with the following requirements:

(a) Beneficial reuse shall be restricted to those solid wastes appropriate for the specific use and in accordance with engineering, industry guidelines, or other standard practices specified in the Report of Disposal Site Information as required by §21600(b)(6).

(b) Beneficial reuse shall be restricted to quantities of solid wastes no more than necessary to meet the minimum requirements of (a). Should the CIWMB determine that an owner or operator violated this standard, the owner or operator shall revise the applicable reports to reflect the overuse as disposal, and pay the required Board of Equalization (BOE) disposal tipping fees for the amount of overuse.

(c) Storage and handling of solid wastes and derived materials for beneficial reuse shall be conducted in a manner to protect public health and safety and the environment, and control vectors, fires, odors, and nuisances.

(d) The owner or operator shall maintain a record of beneficial reuse in accordance with Title 14, California Code of Regulations, §18800 et seq. The records shall be available for inspection by authorized representatives of the EA, the local health agency, and the CIWMB during normal business hours and retained in the operating record near the site or in an alternative location approved by the EA.

NOTE: Authority Cited: Sections 40502, 41781.3, 43020, 43021, 43030 and 43103, Public Resources Code. Reference: Sections 40508, 42245, 43020 and 43021, Public Resources Code; and Title 40 Code of Federal Regulations Section 258.21.

HISTORY

1. New section filed 5–24–2004; operative 7–23–2004 (Register 2004, No. 22).

§ 20690. CIWMB—Alternative Daily Cover. [T14: §17682, §17258.21(b)]

(a) General Requirements

(1) Alternative materials of alternative thickness for daily cover (other than at least six inches of earthen material) for municipal solid waste landfill units may be approved by the EA with concurrence by the CIWMB, if the owner or operator demonstrates that the alternative material and thickness control vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment.

(2) Alternative daily cover alone, or in combination with compacted earthen material, shall be placed over the entire working face at the end of each operating day or at more frequent intervals to control vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment. For the purposes of this section, the operating day shall be defined as the hours of operation specified in the solid waste facility permit, and may extend for more than 24 hours if operations are continuous. Waste–derived alternative daily cover shall be processed prior to spreading and compacting on the working face and applied and compacted to ensure that all exposed waste is completely covered by ADC and that there are no open voids within the cover material or in contact within the underlying wastes. Waste materials used as ADC that already meet the grain–size specifications of these regulations, or an alternative grain size approved by the EA and CIWMB pursuant to this section, need not be processed if the EA determines that the material as received at the landfill is adequate to perform the functions of daily cover and meets the appropriate specifications.

(3) Should the application of alternative daily cover become impracticable or contribute to conditions hazardous to public health and safety and the environment, the owner or operator shall terminate such use and revert to the use of compacted earthen cover material in accordance with §20680. For the purposes of this section, impracticable conditions are those which make placement of alternative daily cover difficult due to adverse climatic or other conditions such that the performance requirements of ¶(a)(2) cannot be met.

(4) The owner or operator shall place compacted earthen material over the entire working face at the end of any operating day preceding a period of time greater than 24 hours when the facility is closed, unless procedures as required by the EA are in place to ensure that the requirements of ¶(a)(2) and (a)(3) are met. A stockpile of earthen cover material and required equipment shall be available to ensure a corrective response to violation of ¶(a)(2) and (a)(3). Whenever an EA determines that an application of ADC is not meeting the requirements of this standard, the EA may direct the operator to immediately cover the ADC with soil. The continuing use of ADC that has been determined by the EA as not meeting the requirements of this section may become the basis for the EA to take enforcement action to seek compliance with the requirements of this section.

(5) The owner or operator shall maintain a record of waste derived alternative daily cover in accordance with Title 14, California Code of Regulations, §18800 et. seq. The records shall be available for inspection by authorized representatives of the EA, the local health agency, and the CIWMB during normal business hours and retained in the operating record near the site or in an alternative location approved by the EA.

(6) For waste classification, composition, and liquid percolation requirements of alternative daily cover, refer to the SWRCB requirements set forth in §20705.

(7) Waste derived materials used as alternative daily cover shall be restricted to quantities no more than necessary to meet the performance requirements of ¶(a)(2), or as specified in subdivision (b) of this section. Should the CIWMB determine after consulting with the EA that an owner or operator violated this standard, the owner or operator shall revise the applicable reports to reflect the overuse as disposal, and pay the required Board of Equalization (BOE) disposal tipping fees for the amount of overuse. EAs shall not be responsible for making such determinations.

(8) Compost, co–compost, and chemically fixed sewage sludge and water treatment sludge only, that meet the performance standards for cover material, shall be limited to up to 25% of landfill cover materials or landfill cover extenders as required under Public Resources Code (PRC) 42245. For the purposes of this section, "chemically fixed sewage sludge" means solid and semisolid residue generated during the treatment of domestic sewage. The 25% limit shall apply on a quarterly basis to the total daily and intermediate cover or cover extender use. For the purpose of this section, landfill cover extenders shall mean compost, co–compost, or chemically fixed sewage sludge blended or mixed with soil.

(9) Storage and handling of waste derived materials at the landfill for use as alternative daily cover shall be conducted in a manner to protect public health and safety and the environment, and control vectors, fires, odors, blowing litter, scavenging, and nuisances.

(10) The EA shall apply this section to disposal facilities other than municipal solid waste landfill units as necessary to control vectors, fires, odors, blowing litter, scavenging, and nuisances without presenting a threat to human health and the environment. This requirement shall also apply to municipal solid waste landfills which qualify for a delay in the general compliance date or additional flexibility as specified in 40 CFR Part 258.

(11) The owner or operator shall implement a program described in the Report of Disposal Site Information as required by §21600(b)(6) to minimize contamination of alternative daily cover with wastes not included within the individual alternative daily cover material types specified in subdivision (b) of this section and wastes that would conflict with the performance requirements of ¶(a)(2).

(b) Specific Requirements

All types of ADC must be approved by the EA in writing prior to use at solid waste landfills as consistent with Title 27, California Code of Regulations, §21570 through §21686. Proposed uses of alternative daily cover materials not specified below shall be subject to site specific dem-

onstration projects approved by the EA with concurrence by the CIWMB to establish suitability as daily cover. Unless otherwise specified in this section, alternative daily cover use by blending listed materials other than using side–by–side on the working face, or layering on top of one another listed materials, shall require site–specific demonstration projects approved by the EA with concurrence by the CIWMB as required by subsection (a)(1). Site specific demonstration projects are not required for the following materials used as specified and in accordance with subdivision (a) of this section.

(1) Geosynthetic Fabric or Panel Products (Blankets)

(A) Geosynthetic blanket products shall be removed from the waste and the waste shall be covered with new waste or approved cover materials within 24 hours of product placement, unless the product is intended to be nonreusable, or has been approved by the EA for continuous use beyond 24 hours.

(2) Foam Products

(A) Foam products shall not be applied when there is precipitation or when there is a local forecast of greater than 40% chance of precipitation within 8 hours of application time in the vicinity of the landfill.

(B) Foam products shall be covered with waste or other approved cover materials within 72 hours of application, unless a shorter time period is required by the EA to meet the requirements of ¶(a)(2) and (a)(3) of this section.

(3) Processed Green Material

(A) For the purposes of this section, processed green material means any plant material that is either separated at the point of generation, or separated at a centralized facility that employs methods to minimize contamination. Green material includes, but is not limited to, yard trimmings, untreated wood wastes, paper products, and natural fiber products. Green material dose not include treated wood waste, mixed demolition or mixed construction debris, manure and plant waste from the food processing industry, alone or blended with soil. Processed green material may include varying proportions of wood waste from urban and other sources and shall be ground, shredded, screened, source separated for grain size, or otherwise processed.

(B) Green material used for alternative daily cover shall be processed prior to being applied to the working face unless the green material to be used as alternative daily cover already meets the grain size specifications. Prior to spreading and compacting on the working face, processed green material shall comply with a grain size specification by volume of 95% less than 6 inches. Alternative processing and grain size specification requirements may be approved by the EA if the EA determines that the alternative meets the performance requirements of ¶(a)(2) and (a)(3) of this section and the CIWMB concurs.

(C) Processed green material shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than or equal to 12 inches.

(D) Processed green material placed as cover shall not be exposed for greater than 21 days.

(4) Sludge and Sludge–Derived Materials

(A) Public contact with sludge or sludge–derived materials, either alone or blended with soil, ash, processed green material, or stabilization agents such as lime, lime kiln dust, or cement kiln dust, shall be prohibited. This prohibition shall apply to staging, processing, tipping, and cover placement areas.

(B) Sludge or sludge–derived materials, either alone or blended with soil, processed green material, ash, or stabilization agents such as lime, lime kiln dust, or cement kiln dust, shall form a compacted material which can be placed without forming open voids or causing material to be tracked off the working face area.

(C) Sludge or sludge–derived materials shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than or equal to 12 inches.

(5) Ash and Cement Kiln Dust Materials

(A) Ash and Cement Kiln Dust, either alone or blended with earthen material or stabilization agents, shall form a compacted material which can be placed without forming open voids or causing material to be tracked off the working face area. For the purposes of this section ash means the nonhazardous residue from the combustion of material or the hazardous residue which may be managed as a nonhazardous waste in accordance with Title 22 California Code of Regulations §§ 66260.200(f) or 66260.210.

(B) Ash and Cement Kiln Dust, either alone or blended with earthen material or stabilization agents shall be used as alternative daily cover in a manner to minimize the creation of dust.

(C) Ash and Cement Kiln Dust, either alone or blended with earthen material or stabilization agents, shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than 12 inches.

(6) Treated Auto Shredder Waste

(A) Auto shredder waste shall be treated pursuant Title 22, California Code of Regulations, § 66268.106(a)(1).

(B) Treated auto shredder waste used for alternative daily cover shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than 24 inches.

(7) Contaminated Sediment, Dredge Spoils, Foundry Sands, Energy Resource Exploration and Production Wastes

(A) Contaminated sediment, dewatered dredge spoils, foundry sands, or processed energy resource exploration and production wastes shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than 12 inches. Such materials shall form a compacted material which can be placed without forming open voids or causing material to be tracked off the working face area.

(8) Compost Materials

(A) Except as provided in ¶(b)(8)(B), of this section, compost shall meet the environmental health standards of Title 14, California Code of Regulations, Division 7, Chapter 3.1, Article 7.

(B) Public contact shall be precluded from cover staging, processing, tipping, and placement areas for compost which does not meet the environmental health standards of Title 14, California Code of Regulations, Division 7, Chapter 3.1, Article 7.

(C) Compost materials shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than or equal to 12 inches. Compost materials shall comply with a grain size specification by volume of 95% less than 6 inches.

(9) Processed Construction and Demolition Wastes and Materials

(A) Processed construction and demolition wastes and materials shall be ground, pulverized, shredded, screened, source separated, or otherwise processed, alone or mixed with soil in a manner to provide a compacted material free of open voids when applied to meet the performance requirements as alternative daily cover.

(B) Processed construction and demolition wastes and materials used as alternative daily cover shall be restricted to the following materials: rock, concrete, brick, sand, soil, ceramics, cured asphalt, lumber and wood, wood products, roofing material, plastic pipe, plant material when commingled from construction work, and fines derived from processing the above materials.

(C) Construction and demolition wastes shall be processed prior to being applied to the working face. Prior to spreading and compacting on the working face, these materials shall comply with a grain size specification by volume of 95% less than 12 inches and 50% less than 6 inches as determined by the EA. The CIWMB shall provide technical assistance in making this determination if requested by the EA. Alternative processing and grain size specification requirements may be approved by the EA if the EA determines that the alternative meets the performance requirements of ¶(a)(2) and (a)(3) of this section and the CIWMB concurs.

(D) Construction and demolition wastes shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than 18 inches.

(10) Shredded Tires

(A) Shredded tires used as daily cover alone or mixed with soil shall be shredded such that 50% by volume is smaller than 6 inches in length and no individual pieces are greater than 12 inches in length.

(B) Shredded tires used as alternative daily cover without admixed soil shall not be applied when there is precipitation or when there is a local forecast of greater than 40% chance of precipitation within 8 hours of application time in the vicinity of the landfill.

(11) Spray applied Cementitious products

(A) Such products shall not be applied when there is a local forecast of greater than 40% chance of precipitation within 8 hours of application time in the vicinity of the landfill.

NOTE: Authority Cited: Sections 40502, 41781.3, 43020, 43021, 43030 and 43103, Public Resources Code. Reference: Sections 40508, 42245, 43020 and 43021, Public Resources Code; and Title 40 Code of Federal Regulations Section 258.21.

HISTORY

1. New section filed 11-5-97; operative 11-5-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 45).
2. New subsections (b)(2)-(b)(2)(B), (b)(5)-(b)(7)(A) and (b)(9)-(b)(10)(B) filed 2-3-98; operative 2-3-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 6).
3. Amendment of section and NOTE filed 5-24-2004; operative 7-23-2004 (Register 2004, No. 22).

§ 20695. CIWMB—Cover Performance Standards. [T14:§17683]

The EA may require the following cover performance standards if necessary to control vectors, fires, odors, and blowing litter and to evaluate the suitability of alternative daily or intermediate cover:

(a) Vectors

(1) Threshold Values–The following shall constitute threshold values for vector populations:

(A) Flies–A fly grill survey value of six (6) or more domestic flies, or observations of domestic flies in the "crawler" stage (newly emerged adults prior to wings becoming functional) at a density of three (3) or more per square yard of surface area at any location on the disposal area. Domestic flies are considered to be those species in the Families: Muscidae (including Anthomyiidae), Calliphoridae, Sarcophagidae, and Drosophilidae.

(B) Domestic Rats–The trapping of one or more domestic rats anywhere on the disposal site. Domestic rats are considered to be any species in the genus Rattus.

(C) Field Rodents–Observation of five (5) or more field rodents feeding on the active face of the disposal site. Field rodents are considered to be any species in the Family Sciuridae.

(D) Mosquitoes–The observation of any immature mosquito stages from water holding waste materials on the disposal site.

(E) Wasps, cockroaches, etc.–The observation of excessive populations utilizing accepted norms.

(2) Inspection Practices

(A) Schedule–Fly grill surveys shall be conducted on each disposal site a minimum of once per week. Sampling to determine the species composition of the fly population shall be conducted a minimum of once per month. Rat trapping surveys shall be conducted at least once each month. Observations for mosquitoes, wasps, cockroaches, "crawler" flies or other types of vectors shall be made during each inspection of the disposal site. The EA may approve alternative inspection schedules or cease inspections if previous inspections or other observations indicate no further threat to public health and safety.

(B) Procedure–Ten (10) fly grill counts shall be made over appropriate attractants on the active face of the disposal site during each inspection utilizing accepted practices to count and record the flies. The five (5) highest counts shall be averaged to obtain the value for that inspection. In sampling to provide qualitative data for the fly species composition on a disposal site, any of the following or other acceptable method for sampling adult flies shall be observed:

–bait traps, exposed for at least a continuous 24–hour period at separate locations, or

–sticky tapes, exposed for a continuous 24–hour period at separate locations, or

–utilization of a standard insect net on the active working face, or

–other approved method to provide a representative sample.

For uniformity of information, one of the approved methods shall be selected for use on a continuing basis at each disposal site.

A minimum of two (2) domestic rat trap lines each containing twenty (20) traps shall be operated for one night on each disposal site at the prescribed frequency. Traps appropriately baited, shall be set at 20–foot intervals in each trap line. One trap line shall be located on or as close to the active face as practical. The other trap line shall be located on the periphery of the site in suitable rodent habitat. On very large sites additional trap lines will be required to provide an adequate sample. Visual observations of field rodents or their signs shall be made and recorded during each inspection.

(C) Equipment–All fly surveys conducted on the active face of the disposal site shall be made with a Scudder fly grill. This device is a square grill consisting of 24 slats, each 3′ * 3/4″ * 1/4″ placed 3/4″ apart on a z.–shaped framework. Species composition of fly populations at the site shall be made with the use of fly traps, sticky tapes, an insect net, or other approved method to provide a representative sample. Snap traps or live traps, or a combination thereof, of suitable size and design shall be used to capture mature domestic rats.

(D) Records–The following information shall be recorded at a minimum during each inspection: Name of site; location; date of inspection; name of person(s) making the inspection; the time the inspection began; the time the inspection ended; temperature; wind conditions; moisture conditions; sky conditions; shade; attractants, when applicable; results of the 10 Scudder grill counts; number and species of all flies captured; number of domestic rats trapped since the previous inspection; number of field rodents observed (or signs of their presence), and the presence of any mosquitoes, wasps, cockroaches, or other types of vectors.

These records shall be kept up to date and shall be submitted to the EA upon request.

(b) Fire

Burning material, or any solid waste at a temperature likely to cause fire, shall not be deposited in the fill. Said material shall initially be deposited in a separate location a sufficient distance from the fill area to prevent fires from spreading to the normal fill area. It shall then be spread in a single layer not exceeding one (1) foot in thickness and immediately covered with a sufficient amount of earth or sprayed with sufficient fire retardant to extinguish all combustion. Final disposition of the material shall not take place until the operator is certain that no further combustion will take place under any conditions.

Fires which originate within the fill shall be handled by removing all the burning material from the fill and extinguishing it as described above, or by in–situ practices approved by the EA, in consultation with the local fire authority. Excavation of burning materials shall be undertaken in a planned and controlled manner; with sufficient fire fighting equipment present to control any "flare–ups" which may occur as outside air reaches the burning materials. The EA shall be immediately notified of any fire.

(c) Litter

Accumulation or offsite migration of litter in quantities that create a nuisance, injury to the public and personnel, or cause other problems, shall be prevented.

(d) Alternative Methods

Alternative cover performance standards in lieu of ¶(a) through (c) of this section may be applied by the EA with concurrence by the CIWMB.

NOTE: Authority Cited: Sections 40502 and 41781.3, Public Resources Code. Reference: Sections 40508, 43020, 43021 and 43103, Public Resources Code; and Code of Federal Regulations Section 258.21.

HISTORY

1. Renumbering and amendment of former section 20685 to new section 20695 filed 11-5-97; operative 11-5-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 45).

§ 20700. CIWMB—Intermediate Cover. (T14:§17684)

(a) Compacted earthen material of at least twelve (12) inches shall be placed on all surfaces of the fill where no additional solid waste will be deposited within 180 days to control vectors, fires, odors, blowing litter, and scavenging.

(b) Alternative materials of alternative thickness (other than at least twelve inches of earthen material) for intermediate cover may be approved by the EA with concurrence by the CIWMB, if the owner or operator demonstrates that the alternative material and thickness control vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment.

(c) For waste classification, composition, and liquid percolation requirements of intermediate cover and alternative intermediate cover, refer to the SWRCB requirements set forth in §20705 of this article.

(d) Proposed use of alternative intermediate cover shall be subject to site specific demonstration to establish suitability as intermediate cover. Demonstration projects shall be approved by the EA with concurrence by the CIWMB.

NOTE: Authority cited: Sections 40502 and 41781.3, Public Resources Code. Reference: Sections 40508, 3020, 43021 and 43103, Public Resources Code; and Code of Federal Regulations Section 258.21.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).
2. Amendment of subsection (a), new subsections (b)-(d), and amendment of NOTE filed 11-5-97; operative 11-5-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 45).

§ 20701. CIWMB—Slope Stability of Daily and Intermediate Cover. (T14:§17678) – [Reserved]

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

§ 20705. SWRCB—Standards for Daily and Intermediate (Interim) Cover. (C15: §2544)

[*Note: This section applies in conjunction with CIWMB sections 20680–20701 and addresses cover issues prior to the installation of the final cover. Readers interested in the SWRCB-promulgated requirements for final cover will find them at §21090.*]

(a) Daily & Intermediate—Interim cover at landfills is "daily cover" and "intermediate cover" as defined by the CIWMB (see §20160).

(b) Minimize Percolation—Interim cover over wastes discharged to a landfill shall be designed and constructed to minimize percolation of liquids through wastes.

(c) For Class II Waste Piles—Cover may be required by RWQCBs for Class II wastes piles.

(d) [Reserved]

(e) Limitations On Cover Materials—Except for reusable covers that are never incorporated into the Unit, daily and intermediate cover shall only consist of materials:

(1) Match Unit Classification—which meet the classification criteria for wastes that can be discharged to that landfill. Therefore, a material that would be classified as a designated waste cannot be utilized for daily or intermediate cover at a Class III landfill unless that material is approved for discharge (as a waste) to that landfill pursuant to §20200(a)(1); and

(2) Composition—whose constituents (other than water) and foreseeable breakdown byproducts, under the chemical (including biochemical) and temperature conditions which it is likely to encounter within the landfill, either:

(A) for non-composite lined portions of the Unit, are mobilizable only at concentrations which would not adversely affect beneficial uses of waters of the state, in the event of a release; or

(B) for composite-lined portions of the Unit, are listed as COCs in the Unit's water quality protection standard (Water Standard), created pursuant to §20395.

(f) Dust Control—The requirements of §21090(a)(5) regarding the discharge of leachate, gas condensate, and other liquids to final-covered portions of the Unit also apply to the discharge of liquids to daily and intermediate cover, including discharges made for the purpose of dust control.

NOTE: Authority cited: Section 1058, Water Code; Reference: Sections 13172 and 13360, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

Article 3. CIWMB—Handling, Equipment and Maintenance

§ 20710. CIWMB—Scavenging, Salvaging, and Storage. (T14:§17686,17687,17690,17691)

(a) Scavenging is prohibited at any disposal site.

(b) Salvaging as approved by the EA shall be conducted in a planned and controlled manner and shall not interfere with other aspects of site operations, including the expeditious entry and egress of vehicles at the site.

(c) Salvaged materials generated on-site or imported shall be placed for storage in a specified, clearly identifiable area segregated from the working face. Salvaged materials shall be arranged so as to minimize risk of fire, health and safety hazard, vector harborage, or other hazard or nuisance, and be limited to a volume and storage time as approved by the enforcement agency.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New article 3 (sections 20710-20750) and section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 20720. CIWMB—Non-Salvageable Items. (T14:§17692)

Drugs, cosmetics, foods, beverages, hazardous chemicals, poisons, medical wastes, syringes, needles, pesticides and other materials capable of impairing public health shall not be salvaged unless approved by the EA and the local health agency.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 20730. CIWMB—Volume Reduction and Energy Recovery. (T14:§17688,17689)

Volume reduction such as incineration, baling, shredding, composting, pyrolysis, and materials and energy recovery operations as approved by the EA shall be confined to specified, clearly identifiable areas of the site. If volume reduction is conducted operations shall be done in a controlled manner as an integral part of the operation and not interfere with the proper construction and maintenance of the site or create health, safety, or environmental problems.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 20740. CIWMB—Equipment. (T14:§17693,17694)

Equipment shall be adequate in type, capacity and number, and sufficiently maintained to permit the site operation to meet requirements of these standards.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 20750. CIWMB—Site Maintenance. (T14:§17695,17696)

The operator shall implement a preventative maintenance program to monitor and promptly repair or correct deteriorated or defective condi-

tions with respect to requirements of the CIWMB standards, and conditions established by the EA. All other aspects of the disposal site shall be kept in a state of reasonable repair.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

Article 4. CIWMB—Controls

§ 20760. CIWMB—Nuisance Control. (T14:§17701)

Each disposal site shall be operated and maintained so as not to create a public nuisance.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New article 4 (sections 20760–20900) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20770. CIWMB—Animal Feeding. (T14:§17702)

Feeding of solid waste to animals which will be used for human consumption is prohibited on disposal sites. Grazing of livestock away from operating areas is permitted.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20780. CIWMB—Open Burning and Burning Wastes. (T14:§17258.24(b),17703, 17741)

(a) Open burning of solid waste, except for the infrequent burning of agricultural wastes, silvicultural wastes, landclearing debris, diseased trees, or debris from emergency clean–up operations, is prohibited at all solid waste landfills.

(b) If burning wastes are received, they shall be deposited in a safe area and extinguished. If burning wastes have been placed in an active face, they shall be immediately excavated, spread and extinguished.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020 through 43022 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20790. CIWMB—Leachate Control. (T14:§17704,17709)

The operator shall ensure that leachate is controlled to prevent contact with the public.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20800. CIWMB—Dust Control. (T14:§17706)

The operator shall take adequate measures to minimize the creation of dust and prevent safety hazards due to obscured visibility.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20810. CIWMB—Vector and Bird Control. (T14:§17707)

The operator shall take adequate steps to control or prevent the propagation, harborage or attraction of flies, rodents, or other vectors and to minimize bird problems.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20820. CIWMB—Drainage and Erosion Control. (T14:§17708,17715)

(a) The drainage system shall be designed and maintained to:

(1) ensure integrity of roads, structures, and gas monitoring and control systems;

(2) prevent safety hazards; and

(3) prevent exposure of waste.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20830. CIWMB Litter Control. (T14:§17711)

Litter shall be controlled, routinely collected and disposed of properly. Windblown materials shall be controlled to prevent injury to the public and personnel. Controls shall prevent the accumulation, or off–site migration, of litter in quantities that create a nuisance or cause other problems.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20840. CIWMB—Noise Control. (T14:§17712)

Noise shall be controlled to prevent health and safety hazards to persons using the site and to nearby residents.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20860. CIWMB—Traffic Control. (T14:§17714)

Traffic flow into, on, and out of the disposal site shall be controlled to minimize the following:

(a) interference and safety problems with traffic on adjacent public streets or roads,

(b) on–site safety hazards, and

(c) interference with site operations.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20870. CIWMB—Hazardous Wastes. (T14:§17742,17258.20)

(a) Owners or operators of all MSWLF units must implement a program at the facility for detecting and preventing the disposal of regulated hazardous wastes as defined in 40 CFR Part 261 and polychlorinated biphenyls (PCB) wastes as defined in 40 CFR Part 761. This program must include, at a minimum:

(1) Random inspections of incoming loads unless the owner or operator takes other steps to ensure that incoming loads do not contain regulated hazardous wastes or PCB wastes;

(2) Records of any inspections;

(3) Training of facility personnel to recognize regulated hazardous wastes and PCB wastes; and

(4) Notification of the EA, the Director of the California Department of Toxic Substances Control (DTSC) or its delegated agent, and the Regional Water Quality Control Board (RWQCB), if a regulated hazardous waste or PCB waste is discovered at the facility.

(b) A site shall not accept hazardous wastes unless the site has been approved for the particular waste involved.

(c) At sites where hazardous materials are processed, precautions must be taken to eliminate or control dusts, fumes, mists, vapors or gases that may be produced in quantities and under conditions which may have harmful effects on site personnel, the general public or animals.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 40508, 43020, 43021 and 43103, Public Resources Code; Sections 25249.5 through 25249.13, Health and Safety Code; and Title 40, Code of Federal Regulations, Section 258.20.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20880. CIWMB—Medical Waste. (new)

Medical waste, unless treated and deemed to be solid waste, which is regulated pursuant to the Medical Waste Management Act [Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code], shall not be accepted for disposal at a site.

NOTE: Authority Cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43013, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20890. CIWMB— Dead Animals. (T14:§17744)

Dead animals may be accepted if allowed by local regulations and shall be covered immediately or at a frequency approved by the EA.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20900. CIWMB—Air Criteria. [T14:§17258.24(a)]

Owners or operators of all MSWLF's must ensure that the units do not violate any applicable requirements developed under a State Implementation Plan (SIP) approved or promulgated by the Administrator, United States Environmental Protection Agency, pursuant to section 110 of the Clean Air Act, as amended.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

Article 5. CIWMB—Fire Control at Active and Closed Disposal Sites

§ 20905. CIWMB—[Reserved]

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43022 and 43103, Public Resources Code.

HISTORY

1. New article 5 (sections 20905–20915) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20915. CIWMB—Subsurface Fire Control. [Reserved]

Article 6. Gas Monitoring and Control at Active and Closed Disposal Sites

§ 20917. CIWMB—Scope and Applicability. [Reserved]

§ 20918. CIWMB—Exemptions.

A disposal site other than a MSWLF unit may be granted an exemption to all or any portion of the requirements of Article 6 of this Subchapter if the operator can demonstrate to the satisfaction of the EA that there is no potential for adverse impacts on public health and safety and the environment, based upon but not limited to: the amount, nature and age of refuse; projected landfill gas generation; and remoteness of the disposal site. Exemptions shall be reviewed by the EA at least every five (5) years and in conjunction with the five (5) year permit review for those sites which have a solid waste facilities permit, and, based on the results, the EA may extend or terminate the exemption. Any exemption granted by the EA shall be in writing and shall contain sufficient relevant information that justifies the exemption.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code; and Title 40, Code of Federal Regulations, Section 258.23.

HISTORY

1. New article 6 (sections 20918–20937) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading and section filed 8–21–2007; operative 9–20–2007 (Register 2007, No. 34).

§ 20919. CIWMB—Gas Control.

Where the EA, the local fire control authority, the local building authority, or the CIWMB has sufficient relevant information to believe a hazard or nuisance is being or may be created by landfill gas, it shall so notify the operator. The local fire control authority and the local building authority shall also notify the EA and the CIWMB. Thereafter, as directed by the EA, the local fire control authority, the local building authority, or the CIWMB, the site operator shall cause the site to be monitored for presence and movement of landfill gas and shall take necessary action to control such gas. The monitoring program shall be developed pursuant to the specifications of the above agencies. The monitoring program shall not be discontinued until authorized to do so in writing by the requiring agency. Results of the monitoring shall be submitted to the appropriate agencies. If monitoring indicates landfill gas movement away from the site, the operator shall, within a period of time specified by the requiring agency, construct a gas control system approved by that agency. The agency may waive this requirement if satisfactory evidence is presented demonstrating that adjacent properties are safe from hazard or nuisance caused by landfill gas movement. The operator shall duly inform the EA of possible landfill gas problems.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading and section filed 8–21–2007; operative 9–20–2007 (Register 2007, No. 34).

§ 20919.5. CIWMB—Explosive Gases Control. [Repealed]

NOTE: Authority cited: Sections 40502, 40508, 43020, 43021 and 43030, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code; and Title 40, Code of Federal Regulations, Section 258.23.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of subsection (b)(2), new subsection (f) and amendment of NOTE filed 10–28–98 as an emergency; operative 10–28–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–25–99 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (b)(2), new subsection (f) and amendment of NOTE refiled 2–25–99 as an emergency; operative 2–25–99 (Register 99, No. 9). A Certificate of Compliance must be transmitted to OAL by 6–25–99 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 2–25–99 order transmitted to OAL 6–24–99 and filed 7–12–99 (Register 99, No. 29).
5. Repealer filed 8–21–2007; operative 9–20–2007 (Register 2007, No. 34).

§ 20920. CIWMB—Scope and Applicability for Gas Monitoring and Control Requirements.

(a) Sections 20921 through 20939 set forth the performance standards and the minimum substantive requirements for landfill gas monitoring and control as it relates to active solid waste disposal sites and to proper closure, postclosure maintenance and ultimate reuse of solid waste disposal sites to assure that public health and safety and the environment are protected from pollution due to the disposal of solid waste.

(b) Sections 20921 through 20939 apply to all of the following:

(1) Active solid waste disposal sites;

(2) Solid waste disposal sites that did not commence complete closure prior to August 18, 1989, which was fully implemented by November 18, 1990, in accordance with all applicable requirements; and

(3) New postclosure activities at any solid waste disposal site that may jeopardize the integrity of a previously closed site or pose a threat to public health and safety or the environment.

NOTE: Authority cited: Sections 40502 and 45020, Public Resources Code. Reference: Sections 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading, section and NOTE filed 8–21–2007; operative 9–20–2007 (Register 2007, No. 34).

§ 20921. CIWMB—Gas Monitoring and Control.

(a) To provide for the protection of public health and safety and the environment, the operator shall ensure that landfill gas generated at a disposal site is controlled in such a manner as to satisfy the following requirements:

(1) The concentration of methane gas must not exceed 1.25% by volume in air within any portion of any on-site structures.

(2) The concentration of methane gas migrating from the disposal site must not exceed 5% by volume in air at the disposal site permitted facility boundary or an alternative boundary approved in accordance with §20925.

(3) Trace gases shall be controlled to prevent adverse acute and chronic exposure to toxic and/or carcinogenic compounds.

(b) The EA, with concurrence by the CIWMB, shall evaluate and, if it complies with the requirements of §§20921–20939 to the satisfaction of the EA and CIWMB, approve a gas monitoring and control program submitted by the disposal site operator. The timeline for concurrence by the CIWMB shall be consistent with the timelines for processing of solid waste facilities permits (27 CCR 21685) and review and approval of closure and postclosure maintenance plans (27 CCR 21860), as appropriate. For CIWMB reviews conducted outside of the SWFP and closure and postclosure maintenance plans processes, the CIWMB shall act upon the submittal by concurring, denying, or requesting additional information within 60 days of receipt of the submittal; if the CIWMB does not act upon the submittal within 60 days, the submittal will be deemed to have been concurred with.

(1) New disposal sites and lateral expansions of existing disposal sites shall comply with these regulations prior to receipt of waste in the new or expanded area.

(2) Disposal sites which have received their final shipment of waste shall comply with these regulations immediately. Disposal sites which are actively implementing final closure activities at the time these regulations become effective shall comply with these regulations in accordance with the time schedule contained in the approved final closure plan.

(3) Existing disposal sites which have not yet received their final shipment of waste shall comply with these regulations in accordance with the following schedule.

(A) For disposal sites which are permitted to receive greater than 20 tons of waste per operating day shall comply with these regulations by September 21, 2008.

(B) For disposal sites which are permitted to accept less than or equal to 20 tons of waste per operating day shall comply with these regulations by September 21, 2009.

(c) The gas monitoring and control program implemented pursuant to §§20921–20939 shall continue until the operator receives written authorization to discontinue by the EA with concurrence by the CIWMB pursuant to 40 CFR 258.61(b). Authorization to cease gas monitoring and control shall be based on a demonstration by the operator that there is no potential for gas migration beyond the disposal site permitted facility boundary or into on-site structures. The operator's demonstration of this proposal shall be supported by data collected and any necessary studies.

(d) The gas monitoring and control program required pursuant to §§20921–20939 shall be included in the JTD and preliminary and final closure and postclosure maintenance plans. The implementation of the gas monitoring and control program shall be described in detail in the JTD and the preliminary and final closure and postclosure maintenance plans to the satisfaction of the EA and CIWMB.

(e) The gas monitoring and control program shall be modified, during the operation and closure and postclosure maintenance periods to reflect changing on-site and adjacent land uses. Postclosure land use at the site shall not interfere with the function of gas monitoring and control systems. The operator may request a reduction of monitoring or control activities based upon the results of monitoring data collected. The request for reduction of monitoring or control activities shall be submitted in writing to the EA and CIWMB.

(f) For the purposes of this article, for disposal sites that do not have a solid waste facilities permit, the disposal site permitted facility boundary shall be as defined in the most recently approved closure and/or postclosure maintenance plan or other appropriate document (e.g., assessor's parcel map).

NOTE: Authority cited: Sections 40502 and 45020, Public Resources Code. Reference: Sections 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading, section and NOTE filed 8–21–2007; operative 9–20–2007 (Register 2007, No. 34).
3. Editorial correction of subsection (b)(1) (Register 2007, No. 40).

§ 20923. CIWMB—Monitoring.

(a) To ensure that the conditions of §20921 are met, the operator shall implement a gas monitoring and control program at the disposal site that satisfies the following requirements:

(1) the gas monitoring network shall be designed by a registered civil engineer or a certified engineering geologist and shall ensure detection of the presence of landfill gas migrating beyond the disposal site permitted facility boundary and also into on-site structures; and

(2)The monitoring network shall be designed to account for the following specific site characteristics and potential migration pathways or barriers, including, but not limited to:

(A) local soil and rock conditions;

(B) hydrogeological conditions at the disposal site;

(C) the hydraulic conditions surrounding the disposal site;

(D) locations of buildings and structures relative to the waste disposal area;

(E) adjacent land use, and inhabitable structures within 1000 feet of the disposal site permitted facility boundary;

(F) man-made pathways, such as underground construction; and

(G) the nature and age of the waste and its potential to generate landfill gas.

NOTE: Authority Cited: Sections 40502 and 45020, Public Resources Code. Reference: Sections 43201 and 43103, Public Resources Code; and Title 40, Code of Federal Regulations, Section 258.23.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading, section and NOTE filed 8–21–2007; operative 9–20–2007 (Register 2007, No. 34).

§ 20925. CIWMB—Perimeter Monitoring Network.

(a) Location

(1) Perimeter subsurface monitoring wells shall be installed around the waste disposal footprint but not within refuse. In some cases the installation of monitoring wells may not be necessary around the entire perimeter of the disposal site permitted facility boundary. In such a case, the operator shall demonstrate to the satisfaction of the EA that landfill gas migration could not occur due to geologic barriers and that no inhabitable structure or other property or land use, such as agricultural lands, within 1,000 feet of the disposal site permitted facility boundary is threatened by landfill gas migration.

(2) Perimeter monitoring wells shall be located at or near the disposal site permitted facility boundary. The operator may establish an alternate boundary closer to the waste disposal footprint based on a knowledge of the site factors in §20923(a)(2). When compliance levels are exceeded at the alternate boundary, the operator shall install additional monitoring wells closer to the permitted facility boundary, pursuant to §20937.

(b) Spacing

(1) The lateral spacing between adjacent monitoring wells shall not exceed 1,000 feet unless the operator demonstrates to the satisfaction of the EA and CIWMB, based on the factors specified in §20923(a)(2), that there is no potential for adverse impacts on the public health and safety and the environment from such wider spacing.

(2) The spacing of monitoring wells shall be determined based upon, but not limited to: the nature of the structure to be protected and its proximity to the refuse. Wells shall be spaced to align with gas permeable structural or stratigraphic features, such as dry sand or gravel, off-site or on-site structures, and areas of dead or stressed vegetation that might be caused by landfill gas migration.

(3) Monitoring well spacing shall be reduced as necessary to protect persons and structures threatened by landfill gas migration.

(c) Depth

(1) The depth of the wellbore of all monitoring wells shall equal the maximum depth of waste. The number and depths of monitoring probes within the wellbore shall be installed in accordance with the following criteria, except as specified in ¶(c)(2) of this section.

(A) a shallow probe shall be installed 5 to 10 feet below the surface;

(B) an intermediate probe shall be installed at or near half the depth of the waste;

(C) a deep probe shall be set at or near the depth of the waste;

(D) the specified depths of monitoring probes within the wellbore shall be adjusted based on geologic data obtained during drilling, and probes shall be placed adjacent to soils which are most conducive to gas flow;

(E) All probes shall be installed above the permanent low seasonal water table, above and below perched ground water, and above bedrock; and

(F) When the depth of the waste does not exceed 30 feet, the operator may reduce the number of probes to two, with one probe located in the shallow zone as indicated above and the other located adjacent to permeable soils at or near the depth of the waste.

(2) Exclusions or modifications to the requirements specified in ¶(c)(1) of this section may be requested when conditions limit the practicality or do not warrant the installation depth criteria (e.g., filled pits, cut and trench, and canyon fills). In those cases, the operator shall propose an alternate system of equivalent probe depths. The proposal must demonstrate to the satisfaction of the EA and CIWMB that probes located at these depths are sufficient to detect migrating landfill gas and provide protection to public health and safety and the environment.

(3) The EA may require an increase in the number of monitoring wells or probes or the depth of the wellbore or modify the depths of monitoring probes within a wellbore to ensure compliance with §20921(a). The operator is not precluded from utilizing existing gas monitoring wells of an alternate design when the operator demonstrates to the satisfaction of the EA and CIWMB that such wells have been installed in a manner that ensures the detection of landfill gas migrating from the disposal site.

(d) Monitoring Well Construction

(1) Monitoring wells shall be drilled by a licensed drilling contractor or by a drilling crew under the supervision of the design engineer or engineering geologist. Wells shall be logged during drilling by a geologist or geotechnical engineer. Soils shall be described using the ASTM Designation: D2488–84 method for visual classification, Standard Practice for Description and Identification of Soils (Visual–Manual Procedure), which is incorporated by reference. Rock units shall be described in a manner appropriate for geologic investigation.

(2) A record of each monitoring well shall be maintained by the operator and submitted to the EA upon request. The record shall include:

(A) a map of the disposal site drawn to a scale proposed by the design engineer or engineering geologist sufficient to show the location of all monitoring wells. Each well must be identified with a number that corresponds to the well log. Surface elevations at the wellheads shall be denoted on the map;

(B) well logs, including the names of the person(s) logging the hole; and

(C) an as–built description, including a well detail which indicates probe material and depth, extent and type of filter pack, thickness and material used for seals, extent and material used for backfill, size and interval of perforations, and a description of any shutoff valves or covers.

(3) To isolate monitored zones within the wellbore and prevent contamination of perched ground water and permanent ground water, the operator shall provide a minimum seal of five (5) feet of bentonite at the surface and between the monitored zones.

NOTE: Authority cited: Sections 40502 and 45020, Public Resources Code. Reference: Sections 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading, section and NOTE filed 8–21–2007; operative 9–20–2007 (Register 2007, No. 34).
3. Editorial correction of subsection (d)(3) (Register 2007, No. 40).

§ 20931. CIWMB—Structure Monitoring.

(a) To ensure that the requirements of §20923(a)(1) are met, the monitoring network design shall include provisions for monitoring all structures within the disposal site permitted facility boundary, including but not limited to, buildings, subsurface vaults, utilities, or any other areas where potential landfill gas buildup may cause adverse impacts to the public health or safety or the environment.

(b) Methods for monitoring on–site structures may include, but are not limited to: periodic monitoring, utilizing either permanently installed monitoring probes or gas surveys, and continuous monitoring systems.

(c) Structures located on top of the waste disposal footprint shall be monitored on a continuous basis.

(d) When practical, structures shall be monitored after they have been closed overnight or for the weekend to allow for an accurate assessment of gas accumulation. Areas of the structure where gas may accumulate shall be monitored and may include, but are not limited to, areas in, under, beneath and around basements; crawl spaces; floor seams or cracks; and subsurface utility connections.

NOTE: Authority cited: Sections 40502 and 45020, Public Resources Code. Reference: Sections 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading, section and NOTE filed 8–21–2007; operative 9–20–2007 (Register 2007, No. 34).

§ 20932. CIWMB—Monitored Parameters.

(a) All monitoring wells and on–site structures shall be monitored for methane during the monitoring period. The EA may require that a sample be collected for laboratory analysis for specified trace gases when there is a possibility of acute or chronic exposure due to hazardous materials.

NOTE: Authority cited: Sections 40502 and 45020, Public Resources Code:. Reference: Sections 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading, section and NOTE filed 8–21–2007; operative 9–20–2007 (Register 2007, No. 34).

§ 20933. CIWMB—Monitoring Frequency.

(a) At a minimum, quarterly monitoring is required.

(1) The EA may require more frequent monitoring based upon site specific factors, including those noted in §20923(a)(2), or as needed to protect public health or safety or the environment.

(2) More frequent monitoring may also be required at those locations where results of monitoring indicate that landfill gas migration is occurring or is accumulating in structures.

(3) The operator shall increase the monitoring frequency, as is necessary, to detect migrating gas and ensure compliance with §20921.

(b) For those MSWLF's that are permitted to accept for disposal 20 tons or less of municipal solid waste per day based on an annual average, the EA, with concurrence by the CIWMB, may reduce the frequencies for monitoring landfill gas after consideration of the unique characteristics of the MSWLF and its surroundings, climatic and hydrogeologic conditions, and protection of public health and safety and the environment. Any proposal by an operator for a reduced monitoring frequency shall be made available by the EA for public review for a minimum of 30 days to allow interested persons the opportunity to comment. The operator shall place in the operating record of the MSWLF documentation of the considerations, public comment, and EA approval and CIWMB concurrence for any alternative frequency. No reduced monitoring frequency shall be approved unless the EA and the CIWMB determine that the alternative monitoring schedule adequately protects the public health and safety and the environment. The Executive Director or the EA may condition, limit, suspend, or terminate an operator's use of an alternative monitoring frequency if s/he or it determines that the alternative frequency may cause harm to public health and safety or the the environment.

NOTE: Authority cited: Sections 40502 and 45020, Public Resources Code. Reference: Sections 43021 and 43103, Public Resources Code; and Title 40, Code of Federal Regulations, Section 258.23.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading, section and NOTE filed 8–21–2007; operative 9–20–2007 (Register 2007, No. 34).

§ 20934. CIWMB—Reporting.

(a) Provided that the results of landfill gas monitoring demonstrate that none of the monitoring wells show gas concentrations in excess of the requirements specified in §20921(a), the operator shall submit the results to the EA within a time period specified by the EA but no more than within ninety (90) days of sampling. When compliance requirements are exceeded in any probe at any well, the requirements of §20937 shall apply. The monitoring reports shall include:

(1) the concentrations of methane, as measured at each probe within each well and within each on–site structure;

(2) the concentrations of specified trace gases, if required by the EA;

(3) the documentation of date, time, barometric pressure, atmospheric temperatures, general weather conditions, and probe pressures at the time the sample was taken or the probe was monitored;

(4) the names of sampling personnel, apparatus utilized, and a brief description of the methods used; and

(5) a numbering system to correlate monitoring results to a corresponding well and probe location.

NOTE: Authority cited: Sections 40502 and 45020, Public Resources Code. Reference: Sections 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading, section and NOTE filed 8–21–2007; operative 9–20–2007 (Register 2007, No. 34).

§ 20937. CIWMB—Reporting and Control of Excessive Gas Concentrations.

(a) When the results of landfill gas monitoring indicate concentrations of methane or trace gases in excess of the compliance requirements specified in §20921(a), the operator shall:

(1) Immediately take all steps necessary to protect public health and safety and the environment and notify the EA by telephone or electronic means.

(2) Within seven (7) days of detection of excessive landfill gas concentrations,

(A) Verify validity of results by reviewing the following:

(i) probe readings;

(ii) possible liquid interference;

(iii) control well influence; and

(iv) barometric pressure effects.

(B) place in the operating record a description of and submit a letter to the EA that describes:

(i) the levels of methane and trace gas detected;

(ii) a brief description of the nature and extent of the problem based on information currently available;

(iii) the steps the operator has taken to protect public health and safety and the environment; and

(iv) a brief description of any further corrective actions that the operator or others need to take to adequately protect public health and safety and the environment prior to the implementation of the remediation plan described in subdivision (a)(3) below.

(3) Within 60 days of detection, implement a remediation plan approved by the EA and CIWMB for the methane gas releases, place a copy of the plan in the operating record, forward a copy of the plan to the EA and CIWMB, and notify the EA that the plan has been implemented. The plan shall describe the nature and extent of the problem and the proposed remedy.

(4) Construct a gas control system that meets the criteria of §20939, designed by a registered civil or mechanical engineer, within a period of time specified by the EA. Installation of the system shall be in accordance with a design and in a manner approved for construction by the EA in coordination, if applicable, with the RWQCB.

(b) The EA, with concurrence by the CIWMB, may establish an alternative schedule for demonstrating compliance with subdivisions (a)(2) and (3) pursuant to 40 CFR 258.23(c)(4).

(c) The EA shall forward notifications and approvals made pursuant to ¶¶(a)(1), (2) and (3) to the CIWMB.

NOTE: Authority cited: Sections 40502 and 45020, Public Resources Code. Reference: Sections 43021 and 43103, Public Resources Code; and Title 40, Code of Federal Regulations, Section 258.23.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading and section, including renumbering of former subsections 20937(b)–(g)(2) to new section 20939, and amendment of NOTE filed 8–21–2007; operative 9–20–2007 (Register 2007, No. 34).

§ 20939. CIWMB—Control of Excessive Gas Concentrations.

(a) A landfill gas control system shall be designed to:

(1) Prevent methane accumulation in on–site structures from exceeding the level specified in §20921(a);

(2) Reduce methane concentrations at the disposal site permitted facility boundary to the level specified in §20921(a);

(3) Reduce trace gas concentrations to the requirement specified in §20921(a); and

(4) Provide for the collection, treatment, and disposal of landfill gas condensate produced within the disposal site. Condensate generated from landfill gas control systems shall not be recirculated into the landfill unless the landfill has a liner and a properly operating leachate collection and removal system and analysis of the condensate demonstrates, to the satisfaction of the EA, that such recirculation into the landfill will not harm the public health or safety or the environment and the applicable RWQCB has approved such discharge pursuant to §20200(d).

(b) Subsurface landfill gas control systems may include, but are not limited to, one or more of the following:

(1) Active perimeter or interior control systems which are designed to accommodate the maximum expected flow rate from the disposal site and provide access for system monitoring and flow rate adjustment. The control system shall be operated to ensure that gas is controlled at a sufficient rate without overpulling, to maximize control and not production, and to ensure adequate control for compliance with §20921(a).

(2) Perimeter air injection systems which shall be installed in native soil between the refuse and the area to be protected. Injection wells shall not be located in the refuse. The system shall be designed and operated to prevent air infiltration into the landfill but maintain landfill gas concentrations to compliance levels.

(3) Passive systems, including cutoff trenches, slurry walls, and vent trenches, when used shall be constructed with an impermeable geomembrane liner. The passive systems shall be installed to the depth of permanent low seasonal ground water or keyed into a low permeability layer below the limit of migration.

(c) Landfill gas control measures to protect structures and public health and safety shall include one or more of the following:

(1) Flexible membrane liners,

(2) Active collection systems,

(3) Passive collection systems designed to be upgraded to an active system,

(4) Alarms,

(5) Ignition source control,

(6) Utility collars installed within structures and outside in trenches, and

(7) Ventilation.

(d) To ensure that the landfill gas control system is operating at optimum efficiency to control landfill gas, the operator shall provide for system monitoring and adjustment.

(e) To provide for the safe, efficient operation of the landfill gas control system, the operator shall implement a maintenance program in accordance with the following requirements:

(1) A site-specific operations and maintenance manual shall be maintained and kept current to reflect any expansion or modifications to the gas control system;

(2) An operations and maintenance manual shall provide for periodic inspections and servicing of gas control equipment; and

(3) Operations and maintenance shall be recorded and the records shall be retained by the operator.

(f) Construction Quality Assurance/Quality Control

(1) The operator shall be responsible for providing inspections, as needed, to ensure the integrity of the system.

(2) Prior to construction, the designer shall obtain and review all applicable test reports, shop drawings, and manufacturer's certificates to verify that all equipment used or to be used in the gas control system has been manufactured in accordance with industry standards.

NOTE: Authority cited: Sections 40502 and 45020, Public Resources Code. Reference: Sections 43021 and 43103, Public Resources Code.

HISTORY

1. Renumbering of former subsections 20937(b)-(g)(2) to new section 20939, including amendment of section and NOTE, filed 8-21-2007; operative 9-20-2007 (Register 2007, No. 34).
2. Editorial correction of subsections (a)(4) and (b)(1)(Register 2007, No. 40).

§ 20945. [Reserved by SWRCB]

Subchapter 5. Closure and Post-Closure Maintenance

Article 1. General Standards for All Waste Management Units

§ 20950. SWRCB—General Closure and Post-Closure Maintenance Standards Applicable to Waste Management Units (Units) for Solid Waste. (C15: §2580)

[*Note: For landfills, see also §21790 et seq.*]

(a) General.

(1) Applicability—Dischargers who are implementing final closure of a new or existing classified solid waste management unit (Unit) or are implementing complete final closure of a portion of a solid waste landfill [incremental closure under §21090(b)(1)(D)] shall comply with the provisions of this article. The discharger shall carry out both mandatory closure (under §22190) and normal closure (*e.g., at the end of the active life of the Unit*) in accordance with a closure and post-closure plan (under §21769) which the RWQCB finds meets all applicable requirements that section and of this Subchapter, including but not limited to applicable performance standards under ¶(a)(2). For the purposes of the RWQCB, the final closure plan the discharger submits under this section constitutes an amendment to the report of waste discharge (under §21750). If a portion of a Unit was completely closed in accordance with an approved closure plan by November 27, 1984, the cover over the closed portion does not need to be modified to conform to the SWRCB's additional closure requirements in these regulations, unless monitoring data indicate impairment of beneficial uses of ground water. Classified Units shall be closed according to an approved closure and post-closure maintenance plan which provides for continued compliance with the applicable SWRCB-promulgated standards for waste containment and precipitation and drainage controls in Article 4, Subchapter 2, Chapter 3 of this subdivision (§20310 et seq.), and the monitoring program requirements in Article 5, Subchapter 2, Chapter 3 of this subdivision (§20380 et seq.), throughout the closure period and the post-closure maintenance period. Relative to the applicable SWRCB-promulgated requirements of this title, the post-closure maintenance period shall extend as long as the wastes pose a threat to water quality; for Units concurrently regulated by the RWQCB and by other state agencies (including the agents of such agencies), the RWQCB's finding that the waste in the Unit no longer poses a threat to water quality shall release the discharger only from the need to comply with the SWRCB-promulgated portions of this title, for that Unit. For land treatment facilities, relative only to the applicable SWRCB-promulgated requirements of this title, the post-closure maintenance period shall extend until treatment is complete.

(2) Performance Standards—The performance standards applicable to closure of a Unit and, for Units that are not clean-closed, to post-closure maintenance at the Unit are as follows:

(A) Unit Closed as a Landfill—for landfills that are not clean-closed and for waste piles and surface impoundments that are closed as a landfill:

[The next page is 645.]

1. Closure—for landfills and for waste piles and surface impoundments closed as landfills, the goal of closure, including but not limited to the installation of a final cover, is to minimize the infiltration of water into the waste, thereby minimizing the production of leachate and gas. For such Units, after closure, the final cover constitutes the Unit's principal waste containment feature; and

2. Post–Closure Maintenance—the goal of post–closure maintenance at such Units is to assure that the Unit continues to comply with the performance standard of ¶(a)(2)(A)1. until such time as the waste in the Unit no longer constitutes a potential threat to water quality;

(B) Unit Clean–Closed—for Units that are clean–closed, the goal of closure is to physically remove all waste and contaminated materials from the Unit and from its underlying and surrounding environs, such that the waste in the Unit no longer poses a threat to water quality. Successful completion of clean–closure eliminates the need for any post–closure maintenance period and removes the Unit from being subject to the SWRCB–promulgated requirements of this subdivision; and

(C) LTUs—for land treatment units (LTUs):

1. Closure—the goal of closure is to initiate the post–closure maintenance period;

2. Post–Closure Maintenance—the goal of post–closure maintenance is to continue Unit operations, without discharging additional waste to the Unit, in a manner which maximizes the degradation rate of the waste remaining within the treatment zone.

(b) Closure Supervision—Closure shall be under the direct supervision of a registered civil engineer or a certified engineering geologist.

(c) Unit Type—Class II Units and Class III landfills shall be closed in accordance with one of the following options:

(1) landfill: pursuant to §21090;

(2) surface impoundment: pursuant to §21400;

(3) waste pile: pursuant to §21410; or

(4) land treatment: pursuant to §21420.

(d) Surveying Monuments—Closed Units shall be provided with at least two permanent monuments installed by a licensed land surveyor or a registered civil engineer, from which the location and elevation of wastes, containment structures, and monitoring facilities can be determined throughout the post–closure maintenance period.

(e) Vegetation—For landfills and for waste piles and surface impoundments that are closed as landfills, all vegetation for the closed Unit's vegetative cover layer shall meet the requirements of §21090(a)(3)(A)1. [in cases where the Unit does not utilize the mechanically erosion resistant layer of §21090(a)(3)(A)2.].

(f) Closure/Post–Closure Financial Assurance—The RWQCB shall require the discharger to establish an irrevocable fund (or to provide other means) for closure and post–closure maintenance (see Articles 1 & 2 of Chapter 6 of this subdivision) to ensure closure and post–closure maintenance of each classified Unit in accordance with an approved plan. [*Note: corrective action financial assurance standards continue to apply throughout closure and post–closure maintenance [see §20380(b) & §22222.]*] For landfills required by the CIWMB to have financial assurance mechanisms under Chapter 6, the RWQCB shall assist the CIWMB:

(1) by verifying the amount of coverage proposed by the discharger to meet applicable SWRCB–promulgated requirements of this subdivision [*Note: the CIWMB is responsible for the review, approval, and management of the financial assurance mechanisms for such Units*]; and

(2) by participating in the CIWMB's periodic review of the adequacy of financial assurance mechanisms, and in any enforcement action that such review reveals, as necessary.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 13172, Water Code; Section 43103, Public Resources Code.

HISTORY

1. New subchapter 5, article 1 (section 20950) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 20960. CIWMB—General Standards for Disposal Sites and Landfills. [Reserved]

Article 2. Closure and Post–Closure Maintenance Standards for Disposal Sites and Landfills

§ 21090. SWRCB—Closure and Post–Closure Maintenance Requirements for Solid Waste Landfills. (C15: §2581 // T14: §17777, §17779)

[*Note: For SWRCB's final cover performance standard, see §20950(a)(2)(A); for related CIWMB requirements, see §21790 et seq.*]

(a) Final Cover Requirements—Final cover slopes shall not be steeper than a horizontal to vertical ratio of one and three quarters to one, and shall have a minimum of one fifteen–foot wide bench for every fifty feet of vertical height. Designs having any slopes steeper than a horizontal to vertical ratio of three to one, or having a geosynthetic component [under ¶(a)(2)], shall have these aspects of their design specifically supported in the slope stability report required under §21750(f)(5). The RWQCB can require flatter slopes or more benches where necessary to ensure preservation of the integrity of the final cover under static and dynamic conditions. The cost estimate, under §21769, for the final cover shall include a description of the type and estimated volume (or amount, as appropriate) of material needed for each component of the final cover based upon the assumption that all materials will need to be purchased; if on–site materials are to be used, the submittal shall include test results confirming the availability of such on–site materials and their suitability for such use. The RWQCB can allow any alternative final cover design that it finds will continue to isolate the waste in the Unit from precipitation and irrigation waters at least as well as would a final cover built in accordance with applicable prescriptive standards under ¶(a)(1–3).

(1) Foundation Layer—Closed landfills shall be provided with not less than two feet of appropriate materials as a foundation layer for the final cover. These materials may be soil, contaminated soil, incinerator ash, or other waste materials, provided that such materials have appropriate engineering properties to be used for a foundation layer. The foundation layer shall be compacted to the maximum density obtainable at optimum moisture content using methods that are in accordance with accepted civil engineering practice. A lesser thickness may be allowed for Units if the RWQCB finds that differential settlement of waste, and ultimate land use will not affect the structural integrity of the final cover.

(2) Low–Hydraulic–Conductivity Layer—In order to protect water quality by minimizing the generation of leachate and landfill gas, closed landfills shall be provided with a low–hydraulic–conductivity (or low through–flow rate) layer consisting of not less than one foot of soil containing no waste or leachate, that is placed on top of the foundation layer and compacted to attain an hydraulic conductivity of either 1x10–6 cm/sec (i.e., 1 ft/yr) or less, or equal to the hydraulic conductivity of any bottom liner system or underlying natural geologic materials, whichever is less permeable, or another design which provides a correspondingly low through–flow rate throughout the post–closure maintenance period. Hydraulic conductivity determinations for cover materials shall be as specified in Article 4, Subchapter 2, Chapter 3 of this subdivision [§20310 et seq.], but using water as the permeant, and shall be appended to the closure and post–closure maintenance report. For landfills or portions thereof in which the final cover is installed after July 18, 1997, as part of the final closure plan for the Unit, the discharger shall provide a plan, as necessary [see ¶(a)(4)], for protecting the low–hydraulic–conductivity layer from foreseeable sources of damage that could impair its ability to prevent the throughflow of water (*e.g., desiccation, burrowing rodents, or heavy equipment damage*).

(3) Erosion–Resistant Layer—The low–hydraulic–conductivity layer of ¶(a)(2) shall be directly overlain by an erosion–resistant layer, as follows.

(A) Closed landfills shall be provided with an uppermost cover layer consisting of either:

1. Erosion–Resistance Via a Vegetative Layer—a vegetative layer consisting of not less than one foot of soil which:

a. contains no waste (including leachate);

b. is placed on top of all portions of the low–hydraulic–conductivity layer described in ¶(a)(2);

c. is capable of sustaining native, or other suitable, plant growth;

d. is initially planted—and is later replanted as needed to provide effective erosion resistance—with native or other suitable vegetation having a rooting depth not exceeding the depth to the top of the low–hydraulic–conductivity layer described in ¶(a)(2). For any proposed vegetative cover, the discharger shall propose a species mix which harmonizes with the proposed post–closure land use, and which requires as little long–term maintenance as feasible by virtue of its tolerance of the vegetative layer's soil conditions (*e.g., the presence of landfill gas*), its resistant to foreseeable adverse environmental factors (*e.g., climate, disease, and pests*), its rapidity of germination and growth, its persistence and ease of self–propagation, its high percentage of surface coverage (sufficient to prevent surface erosion), and its minimal need for irrigation and maintenance; and

e. by virtue of its composition, its maintained vegetation density, and its finished–and– maintained grade, will be resistant to foreseeable erosion effects by wind–scour, raindrop impact, and runoff; or

2. Mechanically Erosion–Resistant Layer—an erosion– and ultraviolet light–resistant layer which, by virtue of its composition and finished–and–maintained grade, resists foreseeable erosion effects by wind–scour, raindrop impact, and runoff (*e.g., a 1–foot thick layer of cobbles, the interstices of which are filled with gravel*).

(B) The discharger shall maintain all components of the erosion–resistant layer throughout the post–closure maintenance period, and, if closed after July 18, 1997, shall implement such maintenance in accordance with an approved Cover–Integrity Monitoring and Maintenance Program, pursuant to ¶(a)(4).

(4) Cover Maintenance Plan & Annual Cost Estimate—The final cover shall be designed and constructed to function with the minimum maintenance possible. For landfills and for other Units closed as landfills, if the closure occurs after July 18, 1997, the preliminary and final closure and post–closure maintenance plan shall incorporate a cover–integrity monitoring and maintenance program which includes at least the following components. The annualized post–closure maintenance plan cost analysis [of §21769(c)] shall include an itemized estimate of the annual cost of each component:

(A) Periodic Leak Search—a schedule for carrying out periodic monitoring of the integrity of the low–hydraulic–conductivity layer, including a method for effectively identifying and repairing breaches in that layer [*for example and where allowed, by temporarily discontinuing active gas extraction and using surface gas probes or inserted soil gas probes to identify locations where landfill gas is emerging*];

(B) Periodic Identification of Other Problem Areas—a schedule for periodically identifying and addressing other cover problems, including at least:

1. areas of the vegetative cover, if any, requiring replanting;

2. eroded portions of the erosion–resistant layer requiring regrading, repair, or (for areas where the problem persistently reoccurs) increased erosion resistance;

3. eroded portions of the low–hydraulic–conductivity layer needing repair or replacement;

4. areas lacking free drainage;

5. areas damaged by equipment operation;

6. [Reserved]; and

7. localized areas identified in the iso–settlement survey [of ¶(e)(2)] as having sustained repeated or severe differential settlement.

(C) Prompt Cover Repair—a plan for repairing, in a timely manner, any breach or other cover problem discovered pursuant to ¶(a)(4)(A or B). For any repairs of the low–hydraulic–conductivity layer, this plan shall either contain a Construction Quality Assurance (CQA) plan [under §21710(a)(5)], or shall accomplish this goal through the incorporation–by–reference of appropriate portions of an approved CQA plan; and

(D) Vegetation Maintenance—for a final cover utilizing a vegetated erosion resistant layer [under ¶(a)(3)(A)1.], a plan for maintaining this vegetative cover, including fertilization, irrigation, elimination of species that violate the rooting depth limit [of ¶(a)(3)(A)1.d.], replanting, and irrigation system maintenance.

(5) Discharges of Liquids to Covers.

(A) Leachate and Gas Condensate—The discharge of leachate, gas condensate, or other waste liquids to any final–covered portion of an MSW landfill is subject to the restrictions under §20200(d). [*Note: see also 1) definitions of "leachate" and "landfill gas condensate" in §20164, and 2) §20705(f), re: daily and intermediate cover*]

(B) Other Liquids—The discharger shall moderate the application rate of liquids discharged to the cover for dust control, irrigation of the vegetative layer, or other non–disposal purpose in a manner that minimizes the potential for throughflow to the underlying waste. The RWQCB can establish cover throughflow monitoring requirements (*e.g., via intermittent tensiometer measurements of the cover*) to ensure compliance with this requirement.

(6) Stability Analysis—For any portions of the final cover installed after July 18, 1997 for which the RWQCB has not approved a slope and foundation stability report on or before that date, the discharger shall meet the requirements of §21750(f)(5).

(b) Grading Requirements.

(1) Prevent Ponding, Erosion, and Run–On.

(A) General—The final drainage plan shall be included as part of the approved final closure plan for the Unit. In spite of differential settlement, the final cover of closed landfills (including waste piles and surface impoundments closed as landfills) shall be designed, graded, and maintained to prevent ponding and to prevent soil erosion due to high run–off velocities. Except as provided in ¶(b)(1)(B), all portions of the final cover shall have a slope of at least three percent. [*Note: for additional requirements concerning final grading, see §21142.*]

(B) Flatter Areas—The RWQCB can allow portions of the final cover to be built with slopes of less than three percent if the discharger proposes an effective system for diverting surface drainage from laterally–adjacent areas and preventing ponding in the allowed flatter portion. Analyses submitted in support of such a proposal shall take into account the design storm intensity for the Unit [under §20365].

(C) Qualified Professional—The final grading design shall be designed and approved by a registered civil engineer or certified engineering geologist to meet the performance standards of ¶(b)(1)(A and B), taking into consideration pertinent natural and constructed topographic features (including any related to the proposed post–closure land use), and climate.

(D) Prompt Incremental Closure—This paragraph applies unless the RWQCB has approved, as part of the final closure plan, a waiting period (for installation of the final cover) not to exceed five years after the date a portion of the landfill reaches final elevation, in order to avoid subjecting the final cover to potential damage from the high rate of differential settlement that so often occurs during the first few years following the final receipt of waste. To the extent feasible, based on site–specific factors, the complete closure, including final grading and installation of the final cover, for each portion of the landfill shall be implemented as soon as possible after that portion reaches final elevation. [*For additional related requirements, see ¶(d), §21110, §21120.*]

(E) CQA—After July 18, 1997, both the initial construction of the final cover and any later repair work that involves the cover's low-hydraulic-conductivity layer [of ¶(a)(2)] shall be carried out in accordance with an approved CQA plan [see §20323 & §20324].

(2) Steeper-Sloped Portions—Areas with slopes greater than ten percent, areas having surface drainage courses, and areas subject to erosion by water or wind shall be protected from erosion or shall be designed and constructed to prevent erosion.

(3) Precipitation & Drainage Plan—The final closure plan for the Unit shall incorporate a precipitation and drainage control plan for the closed landfill, and shall meet the requirements of §20365.

(c) General Post-Closure Duties—Throughout the post-closure maintenance period, the discharger shall:

(1) maintain the structural integrity and effectiveness of all containment structures, and maintain the final cover as necessary to correct the effects of settlement or other adverse factors;

(2) continue to operate the leachate collection and removal system as long as leachate is generated and detected;

(3) maintain monitoring systems and monitor the ground water, surface water, and the unsaturated zone in accordance with applicable requirements of Article 1, Subchapter 3, Chapter 3, Subdivision 1 (§20380 et seq.);

(4) prevent erosion and related damage of the final cover due to drainage; and

(5) protect and maintain surveyed monuments [installed under §20950(d)].

(d) Landfill Closure Deadline—For landfill Units subject to the CIWMB-promulgated provisions of this division, any closure deadline extensions the discharger proposes to the EA (under §21110) shall be effective only after concurrence by the RWQCB.

(e) Final Cover Surveys. This subsection [i.e., through ¶(e)(3)] applies only to landfills, or portions thereof, that are final-closed after July 18, 1997.

(1) Initial Survey and Map—For a closed landfill (including a surface impoundments or waste pile closed as a landfill), upon completion of all closure activities for the Unit [or portion thereof, pursuant to ¶(b)(1)(D)], the discharger shall conduct an aerial photographic survey [or alternative survey under ¶(e)(3)] of the closed portions of the Unit and of its immediate surrounding area, including at least the surveying monuments [of §20950(d)]. The data so obtained shall be used to produce [or to augment, in the case of incremental closure under ¶(b)(1)(D)] a topographic map of the site at a scale and contour interval sufficient to depict the as-closed topography of each portion of the Unit, and to allow the early identification of any differential settlement, pursuant to ¶(e)(2). For landfills undergoing incremental closure [under ¶(b)(1)(D)], the survey for each closed portion of the landfill shall be carried out immediately following completion of closure activities for that portion of the landfill; such data shall be used to create or augment a map showing the closure date and as-closed topography of each portion of the Unit. The map produced pursuant to this paragraph shall act as a base-line against which to measure the total settlement, through time, of all portions of the final cover since the date when that landfill, or portion thereof, was closed. Upon completion of this topographic map (or, in the case of incremental closure, of each revision thereof), the discharger shall submit a copy to the RWQCB, the CIWMB, and the EA.

(2) Five-Yearly Iso-Settlement Map—At least every five years after completing closure of the landfill [or of the last remaining portion, for landfills undergoing incremental closure under ¶(b)(1)(D)], the discharger shall produce and submit to the RWQCB an iso-settlement map accurately depicting the estimated total change in elevation of each portion of the final cover's low-hydraulic-conductivity layer. Therefore, for each portion of the landfill, this map shall show the total lowering of the surface elevation of the final cover, relative to the baseline topographic map [of ¶(e)(1)], and shall indicate all areas where visually noticeable differential settlement [noted under ¶(e)(4)] may have been obscured by grading operations. The map shall be drawn to the same scale and contour interval as the topographic map under ¶(e)(1), but showing the current topography of the final cover and featuring overprinted isopleths indicating the total settlement to-date. The RWQCB shall apply the requirements of this paragraph only to a closed landfill which the RWQCB finds is likely to undergo differential settlement of such magnitude as to impair either the Unit's containment features (*e.g.*, final cover) or the free drainage of surface flow. [*Note: The RWQCB's choosing to forego requiring iso-settlement mapping for the purpose of water quality protection does not preclude the CIWMB/EA from requiring such mapping for other purposes (e.g., structural integrity considerations regarding a building sited on top of the closed landfill); see §21142(b).*]

(3) Alternative Surveying Techniques—The RWQCB can approve the use of any alternative technique (to an aerial survey) for producing the maps required by ¶(e)(1 & 2), so long as the maps so produced meet the performance standards of ¶(e)(1 & 2).

(4) Tracking Differential Settlement—Prior to conducting periodic grading operations on the closed landfill [under ¶(b)(1)(A)], the discharger shall note on a map of the landfill the approximate location and outline of any areas where differential settlement is visually obvious. Each five-yearly iteration of the iso-settlement map [under ¶(e)(2)] shall show all areas where differential settlement has been noted (under this paragraph) since the previous map submittal, and shall highlight areas of repeated or severe differential settlement. Map notations and delineations made pursuant to this paragraph need not be surveyed, so long as all areas where differential settlement was visually identifiable prior to regrading can be relocated. Such notation and delineation shall be made by, or under the supervision of, a registered civil engineer or registered geologist.

(f) Optional Clean-Closure—Notwithstanding any other SWRCB-promulgated closure or post-closure maintenance requirement in this subdivision, a discharger proposing to clean-close a landfill shall submit a clean-closure plan meeting the requirements of this subsection. [*Note: see also CIWMB's additional landfill clean-closure requirements under §21810.*] The purpose of clean-closure is to render the landfill (including all surrounding environs contaminated by waste released from the landfill) no longer capable of posing a threat to water quality. The purpose of a clean-closure plan is to propose a series of actions, including an accurate estimate of the cost of each such action, that will meet the requirements of this paragraph. Upon the RWQCB's finding that the discharger has successfully completed clean-closure under this paragraph, the landfill shall no longer be subject to the SWRCB-promulgated requirements of this title. Nevertheless, if the RWQCB finds that the discharger's attempt to clean-close the landfill does not meet the requirements of this subsection, the discharger shall close the landfill and carry out post-closure maintenance in the same manner as though the discharger had not attempted clean-closure. For the purpose of this paragraph, the discharger shall have successfully clean-closed a landfill only if:

(1) all waste materials, contaminated components of the containment system, and affected geologic materials—including soils and rock beneath and surrounding the Unit, and ground water polluted by a release from the Unit—are either removed and discharged to an appropriate Unit or treated to the extent that the RWQCB finds they no longer pose a threat to water quality; and

(2) all remaining containment features are inspected for contamination and, if contaminated, discharged in accordance with ¶(f)(1).

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 13172, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New article 2 (sections 21090-21200) and section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 21099. CIWMB—Purpose. (new)

(a) For purposes of the CIWMB promulgated sections of this article, "closed" refers to the status of a disposal site that either 1) has received a closure certification pursuant to §21880, or 2) has, on or before November 18, 1990, completed all closure activities required pursuant to regulations in effect at the time of the last receipt of waste.

(b) For purposes of the CIWMB promulgated sections of this article, "closing" means the period that commences when implementation of an approved final closure or partial final closure plan begins, and that ends when implementation of an approved final closure or partial final closure plan is complete.

NOTE: Authority cited: Sections 40502, 43020, 43021 and 43509, Public Resources Code. Reference: Sections 43020, 43021, 43103 and 43509, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21100. CIWMB—Scope and Applicability. (T14:§17760)

(a) This article sets forth the performance standards and the minimum substantive requirements for proper closure, postclosure maintenance and ultimate reuse of disposal sites. The EA may require the operator or owner to address site–specific conditions as part of the solid waste facility permit or any plan needed for closure of the site to ensure that public health and safety and the environment are protected. [*For water quality aspects of closure and/or postclosure maintenance, refer to requirements set forth in §20950.*]

(b) The regulations contained in this article apply to:

(1) disposal sites that did not complete closure prior to November 18, 1990, in accordance with all applicable requirements; and

(2) new postclosure activities that may jeopardize the integrity of previously closed disposal sites or pose a potential threat to public health and safety or the environment.

(c) All closure plans submitted after the effective date of the regulations shall conform to the regulations in this article. Closure plans submitted prior to the effective date of this article that have been deemed complete and for which detailed comments have been supplied by the CIWMB and the EA within 12 months of the original submittal date shall not need to be resubmitted. Closure plans submitted prior to the effective date of this article that have been deemed complete but for which detailed comments have not yet been supplied by the CIWMB and the EA may not need to be resubmitted.

(d) Closed sites for which closure plans were not approved pursuant to §20164 or §21099, and illegal or abandoned disposal sites which pose a threat to public health and safety or the environment shall implement the provisions of these regulations as required by the EA.

(e) [Reserved]

(f) The EA shall apply these regulations to non–MSWLF units, except for disposal sites that have received household or commercial wastes, only as necessary to protect public health and safety, until such time as those non–MSWLF units or disposal sites have been placed into the regulatory tier structure set forth in Subchapter 2 of Chapter 4 (§21460 et seq.) The EA shall implement these regulations in coordination with RWQCB or other agencies as applicable.

[*Note: Subsection (e) (reserved) has been added to address closure of disposal sites which have been or will be slotted by the Board into regulatory tiers (e.g. non–MSWLF construction and demolition landfills and monofills for ash and contaminated soils).*]

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Sections 43021 and 43103, Public Resources Code, and Section 66796.22(d), Government Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21110. CIWMB—Time Frames for Closure. (T14:§17763, parts of §17258.60 and 17258.61)

(a) Within thirty (30) days of receipt of the final shipment of waste to a discrete unit or if the entire disposal site has reached permitted capacity, the operator shall begin implementation of the closure schedule as specified in the approved closure plan.

(b)(1) If a solid waste landfill that has remaining permitted capacity is inactive for 12 consecutive months, the operator shall begin closure activities in accordance with the time frames specified in the closure plan unless granted an extension pursuant to ¶(b)(3).

(2) If the average annual waste disposal rate to a solid waste landfill is reduced for two consecutive years to a rate equal to or less than thirty (30) percent of the average annual tonnage rate during the previous ten years (exclusive of the minimum and maximum tonnage years), the operator shall begin closure activities in accordance with the time frames specified in the closure plan unless granted an extension pursuant to ¶(b)(3).

(3) Extensions beyond the deadline for beginning closure may be approved by the EA, for up to five years at a time, if all of the following conditions are met:

(A) The operator demonstrates that the landfill has the capacity to receive additional wastes and is likely to receive additional wastes;

(B) The operator demonstrates that the reduction in disposal tonnage is for a purpose other than the avoidance or delay of closure;

(C) The operator has taken and will continue to take the steps necessary to prevent threats to public health and safety and the environment from the unclosed landfill;

(D) CIWMB concurs with the EA–approved extension.

(4)(A) The operator applying for an extension shall apply for a closure timeline extension at least 120 days prior to the anticipated date that the landfill waste flow rate will meet the limits specified in ¶(b)(1) or ¶(b)(2) above.

(B) Should the landfill waste flow rate unexpectedly meet the limits specified in ¶(b)(1) or ¶(b)(2) above, the operator shall apply for a closure timeline extension within 60 days of the date that the landfill waste flow rate meets the limits specified in ¶(b)(1) or ¶(b)(2) above.

(C) The application shall include, at a minimum, information that demonstrates compliance with the criteria in ¶(b)(3) and shall contain any additional information required by the EA.

(5)(A) The EA shall act upon the time extension request by approving, denying, or requesting additional information within 60 days of receipt of the application. If the EA does not act upon the request within 60 days, the request will be deemed to have been approved.

(B) The CIWMB shall act upon the time extension request by concurring, denying, or requesting additional information within 60 days of written notification of the EA's approval. If the CIWMB does not act upon the request within 60 days, the request will deemed to have been concurred with.

(C) If the EA or CIWMB denies an extension request, such denial shall be based on a written finding that:

(i) One or more of the conditions in §21110(b)(3) have not been met; or

(ii) Approval of the extension request would result in significant adverse impacts to public health and safety or the environment in contravention of the CIWMB's statutes and regulations.

(6) Within 30 days of receiving a closure timeline extension, the operator shall submit an application for permit review, pursuant to §21640, to the EA. If the EA determines that a revised SWFP is required, the revised SWFP may include additional and/or revised conditions requiring, but not limited to, partial closure, enhanced intermediate cover, or other operational conditions based on the reduced waste flow rate and in consideration of the need for additional environmental protections beyond the existing permit conditions.

(7) If a time extension is not approved, the operator shall begin implementation of closure schedule as specified in the approved closure plan within 30 days following receipt of the decision of the EA or CIWMB.

(8) An operator of a landfill which meets the waste flow levels specified in ¶(b)(1) and ¶(b)(2) does not need to request an extension from closure provided both of the following conditions are met:

(A) The operator submits a final closure and postclosure maintenance plan within six (6) months of the effective date of the regulation and

(B) The operator permanently ceases accepting waste at the landfill within two (2) years of the effective date of the regulation.

(9) Subsections (b)(1)–(8) apply to the entire solid waste landfill and not to individual discrete units.

(c) Closure activities shall adhere to the time frames specified in the approved closure plan.

(d) In the event that the time frames for completion of specific activities cannot be adhered to due to adverse weather or other factors not in the control of the operator, then the time frames may be lengthened based upon those specific factors.

(1) The operator shall notify the EA of any change in schedule due to adverse weather or other factors not in their control. The notification shall be made as soon as the operator becomes aware of a needed change.

(2) The EA may deny the change requested pursuant to ¶(d)(1) if the factors justifying the change are in the control of the operator.

(e) The owner or operator of a solid waste landfill must complete closure activities in accordance with the approved closure plan within 180 days following the beginning of closure. Extensions of the closure period may be granted by the EA and concurred by the CIWMB and RWQCB if the owner or operator demonstrates that closure will, of necessity, take longer than 180 days and the owner or operator has taken and will continue to take all steps to prevent threats to human health and safety and the environment from the unclosed solid waste landfill. Timeline extensions will generally be approved through the approval of the closure and postclosure maintenance plans.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Sections 43021, 43103 and 44004, Public Resources Code; and Sections 66796.22(d) and 66796.22(g), Government Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. New subsections (b)(1)–(b)(9), subsection relettering, amendment of newly designated subsections (d)(2) and (e) and amendment of NOTE filed 2–25–2003; operative 2–25–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 9).

§ 21120. CIWMB—Partial Final Closure. (T14:§17764)

(a) The operator shall to the extent feasible, based on site-specific factors, implement partial and/or partial final closure activities as the site operation progresses, consistent with the closure of the entire site.

(b) Partial closure may be accomplished by implementing one or a combination of individual closure activities pursuant to CIWMB and SWRCB requirements including, but not limited to: placement of final cover, final grading, drainage control, revegetation, and installation of environmental monitoring and/or control systems (all of the foregoing) consistent with the approved closure and postclosure maintenance plan.

(c) Partial final closure may be accomplished by closing discrete units in a manner consistent with the approved closure and postclosure maintenance plan.

(d) The approval and implementation of any closure plan for a portion of the landfill shall be subject to the same process and time frames as for the approval and implementation of a closure and postclosure maintenance plan for the entire landfill (see §21110 and §21860).

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Sections 43021 and 43103, Public Resources Code; and Sections 66796.22(d) and 66796.22(g), Government Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21125. CIWMB—Clean Closure. [Reserved]

§ 21130. CIWMB—Emergency Response. (T14:§17766)

Water quality protection aspects for emergency response plan are addressed in §21132.

(a) The operator shall maintain a written postclosure emergency response plan at the facility or at an alternate location as approved by the EA. The emergency response plan must identify occurrences that may exceed the design of the site and endanger public health or the environment. The plan shall describe specific procedures that minimize these hazards to protect public health and safety. The events that the plan shall address include, but are not limited to: vandalism, fires, explosions, earthquakes, floods, the collapse or failure of artificial or natural dikes, levees or dams; surface drainage problems; and other waste releases.

(b) The emergency response plan shall contain the following:

(1) identification of events which could require the implementation of emergency response actions. This section shall not apply to the gas monitoring provisions;

(2) a description of the actions to be taken, and the sequence and implementation timetable needed to mitigate the conditions; and

(3) a statement regarding the general availability of equipment required to mitigate each type of emergency.

(c) The operator shall amend the emergency response plan under the following conditions:

(1) whenever a failure or release occurs for which the plan did not provide an adequate response;

(2) when the postclosure land use and/or structures on the site change and these changes are not addressed in the existing plan; or

(3) if the EA notifies the operator in writing that the current emergency response plan is inadequate under the provisions of this section. The notifying agency shall include within the written notice the items the plan needs to consider for it to comply with this section. The operator shall submit an amended emergency response plan to the EA within thirty (30) days of notification of an inadequacy.

(d) Whenever the operator amends the emergency response plan pursuant to ¶(c)(1 or 2), the operator shall submit a written copy of the amended plan to the EA.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Sections 43021 and 43103, Public Resources Code; and Sections 66796.22(d) and 66796.22(g), Government Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21132. SWRCB—Landfill Emergency Response Plan Review. (new)

(a) Review & Notification—For landfills, the RWQCB shall review the emergency response plan, in coordination with the Enforcement Agency (EA), to assure that no proposed response to a foreseeable emergency will result in a threat, or increased threat, to beneficial uses of waters of the state.

(b) Submittal—For landfills for which the CIWMB requires an emergency response plan (*e.g., pursuant to §21130*), the discharger shall submit a copy of that plan, including any proposed amendments thereto, to the RWQCB. For landfills having an existing emergency response plan that has already been reviewed by the RWQCB, the discharger need not resubmit the plan for review by the RWQCB until such time as the plan is amended. For landfills having an existing emergency response plan (i.e., approved by the EA) that has not as yet been reviewed by the RWQCB, the discharger shall submit a current copy of the plan for RWQCB review prior to July 18, 1998. For proposed emergency response plans (including proposed amendments to an existing plan), this submittal shall occur at the same time as the discharger submits the proposed plan to the EA.

(c) Coordinate On New Response—In the event that the discharger proposes to respond to an emergency in a manner other than specified in the emergency response plan, the RWQCB shall coordinate with the EA to assure that the proposed response does not pose a threat to water quality.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13226, 13227, 13263, 13267, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21135. CIWMB—Site Security. (T14:§17767)

(a) Sign(s) shall be posted at all points of access to a site sixty (60) days prior to the last receipt of waste at the site and for a period of not less than one hundred eighty (180) days after the facility has received the final shipment of waste stating the intended date of last receipt of waste at the site and the location of alternative permitted solid waste management facilities. A notice shall be placed in a local newspaper(s) thirty (30) days prior to the last receipt of waste which includes the intended date of the

last receipt of waste at the site and the location of alternative solid waste management facilities.

(b) Sites which do not allow public disposal and which have not allowed public access to the site for more than one year prior to cessation of acceptance of waste, or are undertaking partial final closure pursuant to §21120, shall be exempt from the provisions of this section.

(c) The EA may require more signs, signs written in additional languages, larger signs, or signs of clearer design, if necessary to protect public health and safety.

(d) The EA may grant variances from the sign provisions of this section after receiving a written request by the operator.

(e) Sedimentation and detention basins shall be secured and maintained during the closure and postclosure maintenance period to prevent unauthorized access.

(f) The operator shall ensure that all points of access to the site are restricted to protect public health and safety as of the date the final shipment of waste is received. Components of any monitoring, control or recovery systems at the site shall be protected from access other than that allowed in accordance with the approved closure and postclosure maintenance plans.

(g) Once closure activities are complete, site access by the public may be allowed in accordance with the postclosure maintenance plan, as approved by the EA.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Section 66796.22(d), Government Code; and Sections 43103 and 44100, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21137. CIWMB—Structure Removal. (T14:§17771)

(a) the operator shall dismantle and remove site structures at the time of closure to protect public health and safety in accordance with the implementation schedule of the approved final closure plan.

(b) The operator shall ensure that structures and components of landfill gas and leachate control systems not intended for reuse that have come into contact with leachate or landfill gas, and that are dismantled at the time of closure or during the postclosure period are:

(1) disposed of within the landfill, in accordance with the approved final closure plan; or

(2) transported to another solid waste facility which is approved for receipt of such materials. Transportation and disposal should be accomplished in a manner to protect public health and safety.

NOTE: Authority cited: Sections 40504 and 43020, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Sections 43021 and 43103, Public Resources; and Section 66796.22(d), Government Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21140. CIWMB—Final Cover. (T14:§17773)

(a) The final cover shall function with minimum maintenance and provide waste containment to protect public health and safety by controlling at a minimum, vectors, fire, odor, litter and landfill gas migration. The final cover shall also be compatible with postclosure land use.

(b) In proposing a final cover design meeting the requirements under §21090, the owner or operator shall assure that the proposal meets the requirements of this section. Alternative final cover designs shall meet the performance requirements of ¶(a) and, for MSWLF units, 40 CFR 258.60(b); shall be approved by the enforcement agency for aspects of ¶(a).

(c)The EA may require additional thickness, quality, and type of final cover depending on, but not limited to the following:

(1) a need to control landfill gas emissions and fires;

(2) the future reuse of the site; and

(3) provide access to all areas of the site as needed for inspection of monitoring and control facilities, etc.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Sections 43021 and 43103, Public Resources Code; and Section 66796.22(d), Government Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Change without regulatory effect amending section heading filed 6–21–2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 25).

§ 21142. CIWMB—Final Grading. (T14:§17776, 17777)

(a) Final grades must be designed and maintained to reduce impacts to health and safety and take into consideration any postclosure land use. [*Note: for final grading requirements concerning water quality protection, see section §21090(b).*]

(b) Subsequent to the creation and submittal of the initial postclosure topographic map, pursuant to §21090(e)(1), the EA shall require the owner and/or operator to produce five– yearly iso settlement maps meeting the requirements of §21090(e)(2)and(3) only if:

(1) the RWQCB does not require such maps (for the purpose of water quality protection at the landfill); and

(2) the EA finds that such maps are needed for reasons other than water quality protection.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Sections 43021, 43103 and 44100, Public Resources Code; and Section 66796.22(d), Government Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21145. CIWMB—Slope Stability. (T14:§17777)

(a) The operator shall ensure the integrity of final slopes under both static and dynamic conditions to protect public health and safety and prevent damage to postclosure land uses, roads, structures, utilities, gas monitoring and control systems, leachate collection and control systems to prevent public contact with leachate, and prevent exposure of waste. Slope stability analyses shall be conducted and reported pursuant to the requirements of Division 2, Subdivision 1, Chapter 4, Subchapter 3, Article 4 Section 21750(f)(5).

(b) The operator shall notify the EA, CIWMB, and RWQCB in the event of any slope failure.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Sections 43021, 43103 and 44100, Public Resources Code; and Section 66796.22(d), Government Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21150. CIWMB—Drainage and Erosion Control. (T14:§17778 & §17779)

[*Water quality protection aspects for drainage and erosion control are addressed in §20365 and §21090, and in Table 4.1 (in Article 4, Subchapter 2, Chapter 3 of this subdivision).*]

(a) The drainage and erosion control system shall be designed and maintained to ensure integrity of postclosure land uses, roads, and structures; to prevent public contact with waste and leachate; to ensure integrity of gas monitoring and control systems; to prevent safety hazards; and to prevent exposure of waste.

(b) In cases where the design precipitation event in Table 4.1, Article 4, Subchapter 2 of Chapter 3, is not adequate for the protection of public health and safety, the EA, in consultation with the RWQCB, may require the implementation of a more stringent design.

(c) Slopes not underlain by waste shall be stabilized to prevent soil erosion. Methods used to protect slopes and control erosion shall include, but are not limited to, terracing, contour furrows, and trenches.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Sections 43021 and 43103, Public Resources Code; and Section 66796.22(d), Government Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21160. CIWMB—Landfill Gas Control and Leachate Contact. (T14:§17781, 17783)

(a) The operator shall implement and maintain landfill gas control and prevent leachate contact with the public or animals according to the requirements of this section.

(b) Gas monitoring and control shall be conducted during the closure and postclosure maintenance period pursuant to Article 6, Subchapter 4 of this chapter.

(c) During the closure/postclosure maintenance period, the owner/operator shall ensure that leachate collection and control is done in a manner which prevents public contact and controls vectors, nuisance and odors.

(d) In designing the LCRS to meet the requirements under §20340, the owner/operator shall also assure that the LCRS neither:

(1) interferes with landfill gas control; nor

(2) promotes landfill gas migration.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Section 66796.22(d), Government Code; and Sections 43103 and 44100, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21170. CIWMB—Recording. (T14:§17787)

(a) The owner or operator, upon completion of closure of the site, shall file a detailed description of the closed site, including a map, with the Recorder of the County in which the site is located, with the EA and with the local agency that has been selected to maintain the county integrated waste management plan. The site description, upon completion of closure of the site, shall include but not be limited to the following:

(1) the date that closure was completed;

(2) the boundaries including height and depths of the filled area. If the site was closed in increments, the boundaries of each waste management unit;

(3) the location where the closure and postclosure plans can be obtained; and

(4) a statement that the future site use is restricted in accordance with the postclosure maintenance plan.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Sections 43103 and 44100, Public Resources; and Section 66796.22(d), Government Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21180. CIWMB—Postclosure Maintenance. (T14:§17788)

[*Water quality protection aspects for postclosure maintenance are addressed in §21090.*]

(a) Postclosure maintenance for the purposes of reducing impacts to health and safety, shall be conducted to ensure the integrity of the final cover and environmental control systems. The landfill shall be maintained and monitored for a period of not less than thirty (30) years after the completion of closure of the entire solid waste landfill. Any areas in which final cover is placed prior to the closure of the entire landfill shall be maintained in accordance with an approved postclosure maintenance plan, but the thirty (30) year monitoring period shall not commence until closure of the entire landfill is complete. Maintenance and monitoring shall include, but not be limited to the following:

(1) site security;

(2) gas monitoring and control system maintenance as specified in the final closure and postclosure maintenance plans.

(b) If nonliquid waste is exposed during postclosure maintenance activities at a solid waste landfill, the waste may be returned to that landfill provided that the integrity of the final cover is maintained.

(c) The operator shall provide to the CIWMB and the EA copies of the maps and reports provided to the RWQCB pursuant to §21090(e)(2) describing the amount of differential settlement.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796(d), Government Code. Reference: Sections 43021 and 43103, Public Resources Code; and Section 66796.22(d), Government Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21190. CIWMB—Postclosure Land Use. (T14:§17796)

(a) Proposed postclosure land uses shall be designed and maintained to:

(1) protect public health and safety and prevent damage to structures, roads, utilities and gas monitoring and control systems;

(2) prevent public contact with waste, landfill gas and leachate; and

(3) prevent landfill gas explosions.

(b) The site design shall consider one or more proposed uses of the site toward which the operator will direct its efforts, or shall show development as open space, graded to harmonize with the setting and landscaped with native shrubbery or low maintenance ground cover.

(c) All proposed postclosure land uses, other than non–irrigated open space, on sites implementing closure or on closed sites shall be submitted to the EA, RWQCB, local air district and local land use agency. The EA shall review and approve proposed postclosure land uses if the project involves structures within 1,000 feet of the disposal area, structures on top of waste, modification of the low permeability layer, or irrigation over waste.

(d) Construction on the site shall maintain the integrity of the final cover, drainage and erosion control systems, and gas monitoring and control systems. The owner or operator shall demonstrate to the satisfaction of the EA that the activities will not pose a threat to public health and safety and the environment. Any proposed modification or replacement of the low permeability layer of the final cover shall begin upon approval by the EA, and the RWQCB.

(e) Construction of structural improvements on top of landfilled areas during the postclosure period shall meet the following conditions:

(1) automatic methane gas sensors, designed to trigger an audible alarm when methane concentrations are detected, shall be installed in all buildings;

(2) enclosed basement construction is prohibited;

(3) buildings shall be constructed to mitigate the effects of gas accumulation, which may include an active gas collection or passive vent systems;

(4) buildings and utilities shall be constructed to mitigate the effects of differential settlement. All utility connections shall be designed with flexible connections and utility collars;

(5) utilities shall not be installed in or below any low permeability layer of final cover;

(6) pilings shall not be installed in or through any bottom liner unless approved by the RWQCB;

(7) if pilings are installed in or through the low permeability layer of final cover, then the low permeability layer must be replaced or repaired; and

(8) periodic methane gas monitoring shall be conducted inside all buildings and underground utilities in accordance with §20933 of Article 6, of Subchapter 4 of this Chapter.

(f) The EA may require that an additional soil layer or building pad be placed on the final cover prior to construction to protect the integrity and function of the various layers of final cover.

(g) All on–site construction within 1,000 feet of the boundary of any disposal area shall be designed and constructed in accordance with the following, or in accordance with an equivalent design which will prevent gas migration into the building, unless an exemption has been issued:

(1) a geomembrane or equivalent system with low permeability to landfill gas shall be installed between the concrete floor slab of the building and subgrade;

(2) a permeable layer of open graded material of clean aggregate with a minimum thickness of 12 inches shall be installed between the geomembrane and the subgrade or slab;

(3) a geotextile filter shall be utilized to prevent the introduction of fines into the permeable layer;

(4) perforated venting pipes shall be installed within the permeable layer, and shall be designed to operate without clogging;

(5) the venting pipe shall be constructed with the ability to be connected to an induced draft exhaust system;

(6) automatic methane gas sensors shall be installed within the permeable gas layer, and inside the building to trigger an audible alarm when methane gas concentrations are detected; and

(7) periodic methane gas monitoring shall be conducted inside all buildings and underground utilities in accordance with Article 6, of Subchapter 4 of this chapter (§20920 et seq.).

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Sections 43021, 43103 and 44105, Public Resources Code; and Section 66796.22(d), Government Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21194. [Reserved by SWRCB]

§ 21200. CIWMB—Change of Ownership During Closure or Postclosure Maintenance. (T14:§17792)

(a) Before the title to a disposal site is transferred to another person during closure or postclosure maintenance, the new owner shall be notified by the previous owner or his agent of the existence of these standards and of the conditions and agreements assigned to assure compliance.

(b) The previous owner shall notify the EA of the change in title within thirty (30) days and shall provide the name, firm, mailing address, and telephone number of the new owner.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Sections 43021, 43103 and 44005, Public Resources Code; and Section 66796.22(d), Government Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

Article 3. SWRCB—Closure Standards for Units Other Than Landfills

§ 21400. SWRCB—Closure Requirements for Surface Impoundments. (C15: §2582)

(a) Remove Free Liquids—All free liquid remaining in a surface impoundment at the time of closure shall be removed and discharged at an approved waste management unit (Unit). All residual liquid shall be treated to eliminate free liquid.

(b) Options—Following removal and treatment of liquid waste, impoundments shall be closed in one of two ways, as approved by the RWQCB.

(1) Mandatory Clean–Closure Attempt—Unless the discharger demonstrates, and the RWQCB finds, that it is infeasible to attempt clean–closure of the impoundment, then all residual wastes, including sludges, precipitates, settled solids, and liner materials contaminated by wastes, shall be completely removed from the impoundment and discharged to an approved Unit. Remaining containment features shall be inspected for contamination and, if not contaminated, can be dismantled. Any natural geologic materials beneath or adjacent to the closed impoundment that have been contaminated shall be removed for disposal at an appropriate Unit. For surface impoundments that are successfully clean–closed, as herein described, the RWQCB shall declare the Unit no longer subject to the SWRCB–promulgated requirements of this title. If, after reasonable attempts to remove such contaminated materials, the discharger demonstrates that removal of all remaining contamination is infeasible, the surface impoundment shall be closed as a landfill or land treatment unit, as appropriate, pursuant to ¶(b)(2).

(2) Fallback Closure Options—In cases where clean–closure [under ¶(b)(1)] is infeasible, the discharger shall propose for RWQCB approval either:

(A) Closure As a Landfill—that all residual wastes, including sludges, precipitates, settled solids, and liner materials, shall be compacted, and the Unit shall be closed as a landfill pursuant to §21090, provided that the closed Unit meets applicable standards for landfill Units in Articles 3 and 4 of Subchapter 2, Chapter 3, Subdivision 1 of this division (§20240 et seq.), and further provided that the moisture content of residual wastes, including sludges, does not exceed the moisture–holding capacity of the waste either before or after closure; or

(B) Closure As an LTU—for surface impoundments which contain only decomposable wastes at closure, that the Unit be closed as a land treatment unit under §21420(a)(2 – 4).

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 13172, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New article 3 (sections 21400–21420) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21410. SWRCB—Closure Requirements for Waste Piles. (C15: §2583)

(a) Options—Waste piles shall be closed in one of two ways, as approved by the RWQCB.

(1) Mandatory Clean–Closure Attempt—Unless the discharger demonstrates, and the RWQCB finds, that it is infeasible to attempt clean–closure of the waste pile, then all waste materials and any components of the containment system which are contaminated by wastes shall be removed from the waste pile and discharged to an appropriate Unit. Remaining containment features shall be inspected for contamination and, if not contaminated, can be dismantled. Any soil or other materials beneath the closed waste pile that have been contaminated shall be removed for disposal at an appropriate Unit. If, after reasonable attempts to achieve clean–closure (as herein described), the discharger demonstrates that removal of all remaining contamination is infeasible, then the remaining portions of the waste pile (including all contaminated portions of the underlying and surrounding geologic materials) shall be closed as a landfill pursuant to ¶(a)(2) and §21090.

(2) Fallback Options—In cases where clean–closure [under ¶(a)(1)] is infeasible, the discharger shall propose for RWQCB approval either of the following options, as appropriate.

(A) Closure As a Landfill—A waste pile can be compacted, covered, and closed as a landfill §21090, provided that the discharger has met the requirements of ¶(a)(1), and further provided that the closed Unit either meets applicable standards for landfill Units in Articles 3 and 4 of Subchapter 2, Chapter 3, Subdivision 1 of this division (§20240 et seq.), or contains only dry waste and was not required to have a leachate collection and removal system under §20340(a).

(B) Closure As an LTU—Waste piles which contain only decomposable wastes may be closed as a land treatment unit under §21420(a)(2 – 4).

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 13172, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21420. SWRCB—Closure Requirements for Land Treatment Units (LTUs). (C15: §2584)

(a) During the closure and post–closure period, the discharger shall:

(1) continue all operations necessary to maximize degradation, transformation, or immobilization of waste constituents within the treatment zone;

(2) continue all ground water and unsaturated zone monitoring in compliance with Article 1, Subchapter 3, Chapter 3, Subdivision 1 of this division (§20380 et seq);

(3) continue all operations in the treatment zone to prevent runoff of waste constituents; and

(4) maintain the precipitation and drainage control systems.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 13172, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

Article 4. Standards for Composting Facilities [Reserved]

§ 21430. CIWMB—Compost Facility Closure Requirements. [Reserved]

Chapter 4. Documentation and Reporting for Regulatory Tiers, Permits, WDRs, and Plans

Subchapter 1. CIWMB—General

§ 21440. Purpose. (*non-regulatory*) [Reserved]

§ 21450. CIWMB—Scope/Applicability/Coordination. (T14:§18200)

(a) The CIWMB-promulgated sections of this chapter set forth the method of application for a Solid Waste Facility Permit (SWFP) and procedures for review and action on the application package. Also dealt with in this chapter are related matters of application for permits, reinstatement of permits after disciplinary actions, periodic revision of permits, exemptions from the application and permit requirements, and updating of certain application information. Related matters of modification, suspension, or revocation of permits upon investigation by the EA are included in PRC §44001 et seq. and §44300 et. seq.

(b) Pursuant to §20005 the EA shall coordinate all permitting aspects for disposal sites, including review of the JTD, with the RWQCB as appropriate.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code. Reference: Sections 43020, 43021, and 43000–45802, Public Resources Code.

HISTORY

1. New chapter 4, subchapter 1 (section 21450) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

Subchapter 2. CIWMB—Regulatory Tiers [§21460–§21560 Reserved by CIWMB]

Subchapter 3. Development of Waste Discharge Requirements (WDRs) and Solid Waste Facility Permits

Article 1. General

§ 21563. CIWMB—Scope. (T14:§18200, §18200.1)

(a) This Subchapter sets forth the method of application for a full solid waste facilities permit and procedures for review and action on the application package. This Subchapter also addresses related matters of exemptions from the solid waste facilities permit requirements, application for changes in design or operation, reinstatement of solid waste facilities permits after disciplinary actions, periodic reviews and revisions of solid waste facilities permits, and amending application information. Matters related to EA actions to amend, suspend or revoke solid waste facilities permits are included in Article 2, Chapter 5.

(b) The provisions of this Subchapter shall apply to solid waste facilities or disposal sites and any other operations requiring a full solid waste facilities permit pursuant to this Division. Specific provisions of this Subchapter outlining the different responsibilities of the applicant, EA and the CIWMB may be found below as follows:

(1) Exemption from a solid waste facilities permit	Article 1.
(2) Applicant Requirements	Article 2.
(3) EA Requirements	Article 3.
(4) CIWMB Requirements	Article 3.1.

(c) Except as otherwise noted, for purposes of this chapter only, "facility" means solid waste facility, disposal site or any other operation requiring a full solid waste facilities permit pursuant to this division.

(d) For purposes of these articles (Articles 1–3.1), the following definitions apply:

(1) "Complete" means all requirements placed upon the operation of the solid waste facility by statute, regulation, and other agencies with jurisdiction have been addressed in the application package.

(2) "Correct" means all information provided by the applicant regarding the solid waste facility must be accurate, exact, and must fully describe the parameters of the solid waste facility.

(3) "Application Filing" means the enforcement agency has determined the application package is complete and correct and the statutory time limit contained in Public Resources Code §44008 commences.

(4) "Informational Meeting" means a meeting where the public is invited to hear and comment on the preliminary determination of the action to be taken by the EA on an accepted application package. The meeting is strictly informational and no official decision is made at the meeting regarding the formal determination on the solid waste facilities permit application. EA-conducted Informational Meetings fulfill the requirements set forth in Public Resources Code §44004 related to holding a "public hearing", unless the EA substitutes another meeting/hearing that meets the provisions in §21660.4. The definition used herein, does not apply to public hearings, or hearings before hearing panels or hearing officers set forth in Public Resources Code §44300, Chapter 4, Articles 1 and 2, having to do with denial of solid waste facilities permits and related recourses.

(5) "Nonmaterial change" means a change that would require a change to the solid waste facilities permit but would not result in any physical change that would alter the approved design or operation of the facility. The definition is only for purposes of determining when a permit modification is needed as determined by the EA pursuant to §21665(d)(1).

(6) "Significant Change in the design or operation of the solid waste facility that is not authorized by the existing permit" means a change in design or operation of a solid waste facility where the EA has determined pursuant to §21665 that the change is of such consequence that the solid waste facilities permit needs to include further restrictions, prohibitions, mitigations, terms, conditions or other measures to adequately protect public health, public safety, ensure compliance with State minimum standards or to protect the environment. The definition is only for purposes of determining when a permit needs to be revised and should not be utilized for any other purpose.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code. Reference: Sections 43020, 43021 and 43000–45802, Public Resources Code.

HISTORY

1. New subchapter 3, article 1 (sections 21563–21565.5) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment filed 3–14–2007; operative 4–13–2007 (Register 2007, No. 11).
3. Change without regulatory effect amending subsection (d)(4) filed 10–17–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 42).

§ 21565. CIWMB—Exemptions from Requirement of a Permit or Other Regulatory Tier Requirements. (T14:§18215)

(a) After a public hearing the EA may grant an exemption from the requirement that the operator of a facility or operation obtain a permit or comply with other Regulatory Tier Requirements established in Title 14, California Code of Regulations, section 18100 et seq. Such an exemption may be granted if the facility falls within one of the classifications in subsection (b) and all of the following findings are made:

(1) The exemption is not against the public interest.

(2) The quantity of solid wastes is insignificant.

(3) The nature of the solid wastes poses no significant threat to health, safety, or the environment.

(b) Classifications of solid waste facilities that may be exempted are:

(1) Facilities or portions thereof doing research funded primarily by government grants;

(2) Drilling mud disposal sumps for short-term use (less than one year) if significant quantities of hazardous or toxic materials are not present in the mud, fluids and cuttings from drilling and associated operations; [*Note: currently, on-site sumps are exempted under T23 §2511(g) & in §20090(g) of this subdivision*]

(3) Unclassified waste management units as defined by the State Water Resources Control Board (SWRCB), except as otherwise provided in CCR, Title 14, Division 7, Chapter 3.0, Article 5.95.

(4) Farm or ranch disposal sites for one- or two-family use;

(5) Resource Recovery facilities intended only for demonstration purposes and not for profit;

(6) Disposal sites to be used exclusively for one of the following: for spreading of either cannery wastes or oily wastes, mine tailings, ashes and residues, agricultural wastes, street sweepings, dirt from excavations, slag if disposed of on site, or waste water treatment sludge if disposed of on site or to specified agricultural lands; and

(7) Evaporation ponds for disposing of salts from oil and geothermal drilling operations.

(c) The EA may inspect any exempted facility in accordance with CCR, Title 14, Division 7, Chapter 5, Article 2.2, section 18083. Where the EA has reason to believe that circumstances have changed and the findings made pursuant to subsection (a) can no longer be supported, the EA may, after holding a public hearing, rescind the exemption.

(d) All exemptions and rescissions of exemptions shall be forwarded to the CIWMB within seven days after the decision is issued.

[*Comment: In exempting facilities, the EA should recognize that only facilities which are solid waste facilities or operations, as defined in Public Resources Code section 40194, must obtain either a permit or an exemption. The following are examples of facilities that need not apply for an exemption or a permit:*

1. A facility solely engaged in purchase or sale of salvaged separated materials.

2. Scrap metal, glass, cardboard and fiber brokers and manufacturing firms, which utilize salvaged materials.

3. Recycling centers that only handle salvaged separated materials for reuse.

4. Salvaged separated material collection, storage, or processing activities.]

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading and section filed 7–10–2003; operative 8–9–2003 (Register 2003, No. 28).
3. Amendment of subsection (b)(3) filed 12–26–2003; operative 2–24–2004 (Register 2003, No. 52).
4. Editorial correction of HISTORY 3 (Register 2004, No. 2).
5. Editorial correction of section heading (Register 2004, No. 22).

§ 21565.5. CIWMB—Filing Requirements for Exemptions from Solid Waste Facility Permit (SWFP). (T14:§17616)

An applicant must file with the EA information containing applicable sections of a Report of Facility Information/Joint Technical Document (RFI/JTD) to establish that an exemption should be granted.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

Article 2. CIWMB—Applicant Requirements.

§ 21570. CIWMB—Filing Requirements. (T14:§18201)

(a) Any operator of a disposal site who is required to have a full solid waste facilities permit and waste discharge requirements pursuant to Public Resources Code, Division 31 and §20080(f) shall submit an application package for a solid waste facilities permit in duplicate to the EA pursuant to ¶(f). The applicant shall also simultaneously submit one copy of the application form and the Joint Technical Document (JTD) to the Regional Water Quality Control Board (RWQCB) and one copy of the application form to the director of the local agency that oversees local land use planning for the jurisdiction in which the site is located. The applicant shall ensure demonstration of financial assurances to the CIWMB pursuant to Chapter 6 of this Subdivision.

(b) All other applicants who are required to have a full solid waste facilities permit shall submit an application package for a solid waste facilities permit in duplicate to the EA pursuant to ¶(f) and one copy of the application form to the director of the local agency that oversees local land use planning for the jurisdiction in which the site is located. The applicant shall also simultaneously submit one copy of the application form to the RWQCB.

(c) Any application package submitted to the EA shall be accompanied by the fee specified by the EA pursuant to Public Resources Code §44006(c).

(d) The application package shall require that information be supplied in adequate detail to permit thorough evaluation of the environmental effects of the facility and to permit estimation of the likelihood that the facility will be able to conform to the standards over the useful economic life of the facility. The application package shall require, among other things, that the applicant and the owner give the address at which process may be served upon them.

(e) All information in the application package shall be certified by the applicant and the owner of the site as being true and accurate to the best knowledge and belief of each. The applicant, owner of the facility, or both, shall supply additional information as deemed necessary by the EA.

(f) A complete and correct application package shall include, but not necessarily be limited to, the following items:

(1) Application For Solid Waste Facilities Permit/Waste Discharge Requirements Form CIWMB E–1–77 (Version 8–04) (Appendix 1); and

(2) Complete and correct Report of Facility Information. In the case of disposal sites, this will be a Report of Disposal Site Information (RDSI) in the format of a JTD or an Disposal Facility Plan or Disposal Facility Report in the format of a JTD; and

(3) California Environmental Quality Act (CEQA) compliance information as follows:

(A) Evidence that there has been compliance with the CEQA, Division 13 (commencing with §21000) of the Public Resources Code, regarding the facility; or

(B) Information on the status of the application's compliance with the CEQA regarding the facility, including the proposed project description. Once there has been compliance with the CEQA regarding the facility, evidence of compliance shall be submitted to the EA; and

(4) Any CEQA Mitigation Monitoring Implementation Schedule; and

(5) Conformance finding information, including one of the following:

(A) Until a countywide or regional agency integrated waste management plan has been approved by the CIWMB, the application shall include statements that: the facility is identified and described in or conforms with the County Solid Waste Management Plan, or otherwise complies with Public Resources Code §50000; and that the facility is consistent with the city or county General Plan and compatible with surrounding land use, in accordance with Public Resources Code §50000.5; or

(B) After a countywide or regional agency integrated waste management plan has been approved by the CIWMB, the application shall include a statement that: the facility is identified in either the countywide siting element, the nondisposal facility element, or in the Source Reduction and Recycling Element for the jurisdiction in which it is located; or, that the facility is not required to be identified in any of these elements pursuant to Public Resources Code §50001; and

(6) For disposal sites, completeness determination of Preliminary or Final Closure/Postclosure Maintenance Plan as specified in §§21780, 21865, and 21890 (Subchapter 4 of this Chapter); and

[Note: The operator has the option of submitting the preliminary closure plan with the JTD, in which case the EA, RWQCB, and CIWMB would review it at the same time. If deemed complete by the reviewing agencies, the solid waste facilities permit application package could then be accepted for filing if all other information in the JTD is accepted by the EA. Or the operator can submit a stand alone preliminary closure plan to be deemed complete by reviewing agencies before the application package is submitted to the EA. For CIWMB purposes, all final closure/postclosure plans are stand alone documents but can be processed jointly with a proposed solid waste facilities permit revision as long as the final plan is determined complete prior to approval of the proposed solid waste facilities permit. The JTD Index prepared for the EA should show where each closure requirement is addressed in the closure/post–closure plan.]

(7) For disposal sites, current documentation of acceptable funding levels for Financial Assurance Mechanism (in accordance with Chapter 6, Division 2); and

(8) For disposal sites, current documentation of compliance with operating liability requirements in accordance with Chapter 6;

(9) For disposal sites permitted for more than 20 tons-per-day, a ground or aerial survey to be completed at least once every five years or more frequently as determined by the EA. For disposal sites permitted for 20 tons-per-day or less, a ground or aerial survey must be completed at least once every ten years. Survey results must be submitted as a CADD or vector graphics data file including at least two strata, i.e., 1) a stratum showing the base and finished ground surfaces, and 2) a stratum showing the existing and finished ground surfaces. For disposal sites where a change in permitted volume is proposed, a third stratum showing the base and proposed finished ground surfaces must be included. For each stratum the following information shall be included: site name, stratum name, surface1 name, surface2 name, volume calculation method (grid, composite, section), expansion (cut) factor, compaction (fill) factor, cut volume, fill volume and net volume. All volumes shall be reported in cubic yards. If the base ground surface is uncertain, the operator is allowed to provide the best available information as a substitute for the actual as-built contours. If selecting this substitute method, the operator must provide an explanation of the basis for using the substitute base ground surface. For the purposes of this section the following definitions apply:

A. "base ground surface" — the best available excavation plan surface that existed prior to the placement of any waste;

B. "CADD" — computer aided design and drafting;

C. "compaction (fill) factor" — the factor used to correct for expected compaction of fill material; this factor should normally be unity (one); if the factor is not unity (one), an explanation must be provided for the basis of the volumetric correction;

D. "cut volume" — for any stratum, the volume removed by a cut of a lower surface to achieve the upper surface;

E. "existing ground surface" — the topography that exists at the time of the subject survey;

F. "expansion (cut) factor" — the factor used to correct for expected expansion of a cut surface; this factor should normally be unity (one); if the factor is not unity (one), an explanation must be provided for the basis of the volumetric correction;

G. "fill volume" — for any stratum, the volume bound between the upper and lower surfaces;

H. "finished ground surface" — the final fill plan surface as shown in the approved closure plan for the disposal site;

I. "net volume" — the fill volume less the cut volume;

J. "site name" — the name of the disposal site for which the survey information is being submitted;

K. "stratum (plural: strata)" — a particular volume of a solid waste landfill bound by specified upper and lower surfaces;

L. "stratum name" — a descriptive name for the stratum for which volumetric information is being submitted, e.g., total volume including proposed expansion;

M. "surface names" — names for the pair of surfaces that define a named stratum, e.g., base ground surface and proposed finished ground surface;

N. "survey" — a comprehensive examination of the disposal site under the direction of registered civil engineer or licensed land surveyor for purposes of determining the topography of the base, existing and finished ground surfaces, and the volumes bound by those surfaces;

O. "vector graphics" — computer generated images comprised of lines and shapes of given origin, direction, thickness, color and other attributes;

P. "volume calculation method" — grid, composite, section or other method approved by the enforcement agency;

(10) For disposal sites, one of the following:

A. (i) In-place waste density (pounds of waste per cubic yard of waste). The in-place waste density is the estimated or measured density of in-place waste material achieved by mechanical or other means in the development of the current lift of the current operating waste cell, and

(ii) Waste-to-cover ratio, estimated, (volume:volume). The waste-to-cover ratio estimate is a unit-less expression of the proportion of the volumes of waste and cover that comprise a volume of compacted fill material, e.g. 4:1. The cover portion of the waste-to-cover ratio estimate should include only soil or approved daily or intermediate alternative cover that is not considered a waste material, i.e., payment of fees to the CIWMB is not required. The waste portion of the waste-to-cover ratio estimate should include only waste material for which payment of fees to the CIWMB is reported, or

B. Airspace utilization factor (tons of waste per cubic yard of landfill airspace). The airspace utilization factor (AUF) is the effective density of waste material in the landfill. The AUF is recorded as the total weight of waste material passing over the landfill scales that is placed in a known volume of landfill airspace in a given period of time. The waste portion of the AUF should include only waste material for which payment of fees to the CIWMB is reported.

(11) List of all public hearings and other meetings open to the public that have been held or copies of notices distributed that are applicable to the proposed solid waste facilities permit action.

NOTE: Authority cited: Sections 40002, 40502 and 43020, Public Resources Code. Reference: Sections 43103, 44001-44017, 44100-44101, 44300-44301, 44500-44503 and 44813-44816, Public Resources Code.

HISTORY

1. New article 2 (sections 21570-21640) and section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).
2. Change without regulatory effect amending subsections (a) and (f)(1) and explanatory note following subsection (f)(6) filed 3-8-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 11).
3. Amendment of subsections (f)(2), (f)(3)(A) and (f)(5)(A)-(f)(6) filed 2-25-2003; operative 2-25-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 9).
4. Amendment of subsection (f)(2) filed 12-26-2003; operative 2-24-2004 (Register 2003, No. 52).
5. Editorial correction of HISTORY 4 (Register 2004, No. 2).
6. Amendment filed 12-13-2004; operative 1-1-2005 pursuant to Government Code section 11343.4(c) (Register 2004, No. 51).
7. Amendment filed 3-14-2007; operative 4-13-2007 (Register 2007, No. 11).

§ 21580. CIWMB—Submittal of an Incomplete Application Package (T14:§18203)

The applicant may request, in writing, that the EA accept an incomplete application package. As a condition of acceptance, the applicant shall waive the statutory time limit contained in Public Resources Code §44008. The application package shall conform to §21570 within 180 days from the date the EA agrees to accept the package as incomplete or the application package shall be rejected. Upon submittal of an incomplete package, the applicant shall list the deficiencies in the package, reasons for the incomplete submittal, and a proposed schedule as to when the deficiencies will be submitted. For an application for a new or revised solid waste facilities permit, within 30 days after deeming the application complete and correct, the EA shall notice and conduct an informational meeting as required by §§21660.2 and 21660.3.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code. Reference: Sections 43103, 44001-44006 and 44007-44010, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).
2. Amendment filed 3-14-2007; operative 4-13-2007 (Register 2007, No. 11).

§ 21585. SWRCB—Joint Technical Document (JTD). (new)

Regulations in this section were promulgated by the State Water Resources Control Board (SWRCB), are administered by the appropriate Regional Water Quality Control Board (RWQCB) through the issuance of waste discharge requirements (WDRs) or other enforceable orders, and are applicable both to the RWQCB and to the owner or operator of a waste management unit (Unit) for the treatment, storage, or disposal of solid waste, in cases where the Unit is jointly regulated by the RWQCB and by one or more other state agencies.

(a) JTD Addresses All Post-CUP Permitting Agency Requirements—After July 18, 1997, for any Unit jointly regulated by the RWQCB and another state agency (or agencies), the report of waste discharge (ROWD) submitted to the RWQCB in support of the development or revision of WDRs for that Unit shall be in the form of a joint technical

document (JTD) which includes all applicable information required under Article 4 of Subchapter 3 of this chapter (§21710 et seq.), in addition to all information necessary to support the development (or modification, as appropriate) and issuance of any state or local agency permits, other than the conditional use permit, that are required to operate the Unit (including but not limited to the lateral expansion of any Unit).

(1) JTD Submittal Date—For new Units for which the ROWD is initially submitted (as part of the application for WDRs) after July 18, 1997, the discharger shall submit the ROWD in the form of a JTD when applying for WDRs for the Unit. For all other new Units and for existing Units, the discharger need not reorganize and resubmit, as a JTD, those portions of the ROWD submitted prior to July 18, 1997. For new and existing Units, after July 18, 1997, except for scheduled monitoring reports, each submittal regarding the Unit, whether initiated by the discharger or requested by RWQCB, shall be made in the form of a separate addendum to the JTD, pursuant to ¶(a)(4).

(2) JTD Scope—The discharger is responsible for identifying all state and local agencies for which the JTD will serve as a joint permitting information document, pursuant to ¶(a). Nevertheless, for a landfill, the list of agencies addressed in the JTD shall include at least the RWQCB, the CIWMB, the EA, and the AQMD or APCD.

(3) Integration—The discharger is free to organize the JTD in any manner that maximizes the readability and compactness of the document. Nevertheless, to the extent feasible, with respect to any portion of the JTD that discusses a subject of regulatory concern to more than one agency, the discharger shall integrate the discussion to satisfy the concerns of all agencies concerned with that subject. Likewise, to the extent feasible, for facilities having more than one Unit, the JTD shall address topics which are germane to all Units at the facility (*e.g., the hydrogeology of the facility and surrounding area*) in a manner which integrates and incorporates all concerns applicable to each individual Unit and to the facility in general.

(4) JTD Addenda—After July 18, 1997, each submittal made to any permitting agency encompassed by the JTD shall be in the form of a numerically-sequential addendum to the JTD (i.e., Addendum 76 would be followed by Addendum 77). For any given topic being addressed by a given addendum, the discharger shall send a copy of that addendum simultaneously to each permitting agency listing that topic in their agency-specific JTD Index, and shall include an updated JTD page listing for each Water Board JTD index line-item [under ¶(b)] that is addressed by that addendum.

(b) Water Board (JTD) Index—As of July 18, 1997, each RWQCB shall make available to the discharger (both in hard copy and on magnetic media) a JTD index (Water Board Index) listing, by unique line-item number, each topic which the JTD must address to provide the RWQCB information needed to write and adopt or revise WDRs. For each line item (i.e., for each separately listed topic) in the Water Board Index, the discharger shall list all JTD pages (by page number or ranges thereof) addressing that topic. In cases where the preliminary or final closure and post-closure maintenance plan is submitted as a separable part of the JTD, as allowed by §21769(a), the component parts of the plan shall nevertheless be listed as part of the JTD index.

(c) Coordination—Upon the submittal of a new JTD or addendum, the RWQCB shall concentrate the initial review upon those line-items in the Water Board Index which are coded as being of joint interest with other agencies. Regarding all such joint-interest line-items in the Water Board Index, the RWQCB shall coordinate with staff from the other interested agencies, as appropriate, to ensure that WDRs (or proposed changes thereto) do not duplicate or conflict with the requirements of the other agencies.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13140, 13146 and 13172, Water Code; Section 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

2. Change without regulatory effect amending subsections (a) and (b) filed 5-19-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 20).

§ 21590. CIWMB—Joint Technical Document for Disposal Facilities. (new)

Any operator of a disposal site which is required to submit a RDSI, closure/postclosure maintenance plan, and/or a ROWD or any other report that addresses similar regulatory concerns, may address those requirements under one JTD. The JTD will be used in place of the RDSI only if it meets all the requirements set forth in §21600 and lists where each requirement has been satisfied in the document in the form of a JTD index, pursuant to ¶(c).

(a) After July 18, 1997, any operator of an existing facility who submits an application package to the EA, pursuant to §21570, which proposes to change the facility's operations, or to change the SWFP shall do one of the following:

(1) Submit the updated information as an amendment to the existing JTD along with, a JTD index as described in ¶(c), referencing the new or updated information; or

(2) Submit a complete JTD as described in §21600 along with a JTD index as described in subsection c.

(b) After July 18, 1997 any operator of a new facility that submits an application package to the EA pursuant to §21570, shall submit a complete JTD pursuant to §21600, and an index of the topics addressed in the JTD to be used by the EA as described in ¶(c).

(c) As of July 18, 1997, the operator shall include with the JTD a copy of an index specifically for use by the EA. The page number or the first line number within the JTD which addresses the topic shall be noted next to that topic in the index. The EA shall make available to the operator either in hard copy and/or on magnetic media a JTD index listing, (Index found in Appendix 2) showing each topic which the JTD must address to provide the EA with relevant facility information for writing or revising the facility permit.

(d) These requirements do not apply to those facilities which have filed a ROWD or RDSI and application for SWFP prior to July 18, 1997. In the event the EA determines the application package for an RDSI first submitted prior to the effective date of these regulations to be incomplete, additional information requested shall be submitted as part of the RDSI and/or application for SWFP, as appropriate.

NOTE: Authority Cited: Sections 40502, 43020, and 43021, Public Resources Code. Reference: Sections 43000-45802, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 21595. Combined CIWMB and SWRCB Joint Technical Document for Federal Subtitle D Research, Development, and Demonstration Permits.

The JTD shall describe how the facility will comply with Section 20070 of Chapter 1 of this Division, if applicable, and include the specific variance(s) in criteria requested; project research goals; environmental monitoring, contingency and mitigation measures to be implemented for the project; and performance measures to determine to what extent the site is progressing in attaining project goals and protection of public health and safety and the environment. The description shall also include a summary and protocols for: 1. project controls to compare project performance with an equivalent or similar operation or activity not authorized by section 20070; 2. if applicable, processing of materials prior to placement in the MSWLF Unit at the facility; 3. potential accumulation of constituents of concern as defined in section 20164 of Chapter 1 of this Division; 4. if applicable, energy recovery; and 5. if applicable, impacts to postclosure maintenance. The description shall be incorporated in each applicable section of the JTD, in addition to a separate section describing the overall project.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 40508, 43020 and 43021, Public Resources Code; and 40 CFR Section 258.4.

History
1. New section filed 9–29–2005; operative 9–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 39).

§ 21600. CIWMB—Report of Disposal Site Information (RDSI). (T14:§17607, 17616, 17626, 17628, 17629, 18222)

(a) In order to obtain a solid waste facility permit, each operator of a disposal site must file with the EA a RDSI as required in §21600 and §21590. The information contained in the RDSI shall be used to determine whether a permit should be issued and to provide information to be included within the permit if applicable. In order to maintain the permit, the operator must file amendments to the RDSI as required in §21665. Such amendments or lack thereof may become the basis for changes in the permit or for revocation of the permit. The submittal shall contain only those items listed in §21570(f) that have changed or otherwise specified by the enforcement agency.

(b) A RDSI shall contain the following:

(1) General

(A) Facility Overview — Provide a statement including the name of the site, the name of the person who will operate the site, the name of the person who owns the land, and a description of the operation cycle.

(B) Site Plan — Provide facility plan(s), including the pre–disposal topography of the site, the facility boundary of the site (clearly illustrating parcels owned by the operator and/or any parcels leased), the total permitted acreage of the site, the acreage of the disposal area, fill sequencing and excavation plans, the extent of any buffer zones between the disposal area and the permitted property boundaries provided by the facility layout, and the vertical limits of the site. The map required for a ROWD/JTD may be used for the RDSI providing all requirements of this subsection are met.

(C) Hours — State the hours and days of operation for the site, including but not limited to maintenance, site operation, receipt of waste, and public and commercial access.

(2) Waste Classification and Management

(A) Waste Types/Volumes — Describe the types of wastes accepted or proposed for acceptance. Estimated waste volumes should be presented, including current daily average and peak daily waste flows as well as a five year projected waste flow. Specific mention shall be made concerning the receipt of liquid, designated, special wastes or hazardous waste, if taken.

(3) Waste Management Unit Classification and Siting

(A) Airport Safety — Provide documentation that the Federal Aviation Administration and appropriate airport officials were notified if a new MSWLF unit or lateral expansion will be sited within a five–mile radius of any airport runway end used by turbojet or piston–type aircraft. Include results of the demonstration requirement, if required by §20270.

(B) Volumetric Capacity — Provide calculations for volumetric capacity of the site expressed in cubic yards, net permitted capacity available for waste disposal, including the amount of capacity consumed by soils used for liner construction, daily and intermediate cover, and final cover, if included in the total capacity given. Attach topographic maps, including the delineation of the site property boundary and the disposal area used for the volumetric calculations and the date of survey. This information shall be certified by a registered civil engineer or registered geologist.

(C) Site Life Estimate — Provide an estimate of the site life based on the capacity of the site and the waste flow projections, and assumptions regarding the compaction density used in life expectancy calculations. Include any other factors which may effect site life (e.g. local restrictions).

(D) Site Location — Describe the site location, referencing a location map highlighting the legal boundaries, points of access, and major access routes for waste deliveries to the site.

(E) Land Use — Describe and provide a plot plan showing land uses and land use zoning for all properties within 1000 feet of the facility boundary shown on a site plan. The site plan must show structures located on these adjacent properties or distances to the nearest structures. The plot plan shall include specific limits of the existing and planned disposal areas, in relationship to the surrounding land use.

(F) Ancillary Facilities — Describe and provide a plot plan showing all ancillary facilities at the site, including, but not limited to, administration buildings, entrance facilities, scales, maintenance structures, and hazardous materials storage areas.

(4) Design and Construction Standards for all Sites

(A) General Design Parameters — Describe how the site design accommodates or provides for the service area, climatological factors, physical setting, soils, drainage, and other pertinent information. The design shall be developed by a registered civil engineer or registered geologist. If the site is to be used by the general public, show how the design accommodates such use.

(B) Design Responsibility — Design of a new disposal site shall be under the direction of a registered civil engineer. The designer shall utilize expert advice as appropriate from persons competent in soils, hydrology, geology, landscape design, chemistry and other disciplines.

(C) Construction Sequencing Plans — Describe sequencing plans showing the anticipated phases of site development. A map showing the topographical contours prior to filling and the existing topographical contours of the permitted boundary.

(D) Grading Plan — Include a grading plan showing the proposed final elevations of the completed disposal site, and excavation depth, including existing and proposed borrow area.

(E) Gas Management Plan — The gas management plan shall include a description of the facility's gas control and monitoring systems. The site plan shall show locations of monitoring wells. The plan shall describe how the facility will comply with §20919 and §20919.5. Describe any possible use of landfill decomposition gases. Reference any additional information provided in the closure plans pursuant to Article 6.

(5) Operating Criteria

(A) Records — Describe the procedures for maintaining accurate records as required in §§20510 and 20515.

(B) Security — Describe how the operator will discourage unauthorized access by persons or vehicles.

(C) Sanitary Facilities — Describe the sanitary facilities available to site personnel and the public.

(D) Communications Systems — Describe the communications systems utilized and emergency communications procedures followed at the site.

(E) Lighting — Describe the locations, numbers, and types of all permanent and portable lighting to assure safety of employees during nighttime operations, if applicable.

(F) Safety Equipment — List personal safety equipment used by operating and maintenance personnel.

(G) Personnel Requirements — State the minimum numbers and qualifications of personnel required for site operations, maintenance, environmental controls, records, emergency, and health and safety.

(H) Personnel Training — Describe the training required by the various personnel identified above and how that training is to be provided in order to comply with §20610.

(I) Supervisory Structure — Describe supervisory structure, including the management organization which will operate the site and the name of supervisor(s).

(J) Spreading and Compaction — Describe the equipment and methods used to spread and compact wastes.

(6) Cover and Beneficial Use

(A) Cover Materials — Provide a plot plan identifying cover material quantities required from on–site sources, excavation sequence of the site and stockpile locations if stockpiled for a significant amount of time. Identify or describe off–site sources or types of cover materials needed for a five year duration if not included on plot plan.

(B) Alternative Daily Cover and Beneficial Reuse — Describe alternative daily cover and beneficial reuse waste types, processing methods, alternative processing or grain size specifications if applicable, operations

methods, and applicable engineering, or other standard practices that will be used to ensure compliance with §§20695 and 20690. Estimate the range in tons of these materials that are anticipated to be used, based on waste types, applicable cover to waste volume ratios, applicable density conversion factors, engineering specifications, methods to minimize contamination, or other pertinent information. Materials accepted at the landfill to be used as alternative daily cover or for beneficial reuse shall be weighed upon receipt at landfills which have scales but need not be weighed again prior to placement at the landfill. Appropriate conversion factors for specific materials based on industry standards are acceptable for tracking materials received at landfills which do not have scales.

(C) Cover Frequency — State the cover frequency proposed or the alternative daily cover proposed for use in lieu of soil as daily cover. Provide information regarding compliance with §§20680 and 20695 if applicable.

(D) Intermediate Cover — Describe the operator's methods for placing intermediate cover on all areas of the landfill which have not received waste for an 180 day or more time frame.

(7) Handling

(A) Public Health Design Parameters — Disposal sites shall be designed in such a manner as to minimize the propagation or harborage of flies, rodents or other vectors, and the creation of nuisances by reason of solid wastes being deposited at the site. Other factors which shall be taken into consideration are air and water quality, noise control, odor control, public safety and other pertinent matters related to the protection of public health.

(B) Salvaging Activities — If salvaging activities are proposed, describe types of materials handled, and procedures to ensure that salvaging and other waste activities are conducted in a planned and controlled manner so they do not interfere with other aspects of site operation. Provide an EA approved list of items which the facility is permitted to salvage. Describe the storage area for salvaged materials generated on-site or imported. Describe the procedures to ensure that salvage is removed at a frequency which will prevent health or fire problems.

(C) Volume Reduction Activities — If volume reduction activities such as baling and shredding are proposed, describe procedures to ensure proposed operations are conducted in a controlled manner so that they do not interfere with proper construction and maintenance of the site, and do not create health, safety or environmental problems.

(D) Equipment — Describe the minimum equipment requirements necessary to assure ongoing compliance with the state minimum standards. List on-site equipment designated as standby, or provide an up-to-date list of firms or agencies which can supply replacement units within a period of time short enough to ensure compliance with all regulatory requirements. Describe preventative maintenance activities for the equipment listed above.

(E) Waste Handling — Describe dimensions of unloading area and unloading practices. Include procedures for handling, unloading and disposal of liquid waste, special waste, or hazardous waste, if accepted.

(8) Controls

(A) Nuisance — Describe procedures to prevent or control public nuisances.

(B) Fire — Describe procedures for handling burning waste and preventing landfill fires.

(C) Leachate — Describe methods for controlling surface leachate to prevent contact with the public.

(D) Dust Control — Describe procedures which will be taken to control and minimize the creation of dust and prevent safety hazards due to obscured visibility.

(E) Vectors — Describe measures to be taken to control or prevent the propagation, harborage or attraction of flies, rodents, or other vectors and to minimize bird problems.

(F) Drainage and Erosion — Provide a conceptual design and description of the drainage system as it pertains to roads, structures and gas monitoring systems, preventing safety hazards and preventing the exposure of waste.

(G) Litter — Describe the collection frequency for controlling litter and windblown materials in order to prevent the accumulation of quantities which cause a public nuisance or other problems. Include the litter control method used, i.e. litter fences, litter crews, etc.

(H) Noise — Describe the methods for ensuring that noise from site operations are controlled to prevent nuisance to persons using the site and nearby residents.

(I) Traffic — Describe the traffic control plan, showing that the traffic flow into, on, and out of the site is controlled to minimize interference and safety problems for traffic on-site and adjacent public streets or roads.

(J) Hazardous Waste — Describe in detail the hazardous waste screening program.

(9) Compilation of approvals — Provide a list of all approvals having jurisdiction over the disposal site.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43000-45802, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).
2. Amendment of subsections (b)(5)(A), (b)(6) and (b)(6)(A), new subsection (b)(6)(B) and subsection relettering filed 5-24-2004; operative 7-23-2004 (Register 2004, No. 22).
3. Change without regulatory effect amending subsections (b)(6)(B)-(C) filed 8-23-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 34).

§ 21610. CIWMB—Amendments to Application Package. (T14:§18202(a))

At any time after the application package has been submitted and before issuance or denial of the permit or alteration thereof, the applicant shall promptly notify the EA of any changes in any of the information required in the application package. Such notice shall be given by filing two copies of the amendments to the application within seven days of the applicant's first knowledge of the changes. For processing additions, revisions or amendments to the proposed permit and accompanying documents, refer to section 21685(d).

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code. Reference: Sections 43103 and 44001-44006, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).
2. Change without regulatory effect amending section filed 3-8-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 11).

§ 21615. CIWMB—Completeness Appeal. [T14: §18203(f)]

If an application is determined not to be complete, the applicant may appeal the decision to the EA within fifteen (15) days of the date of notification. Such an appeal must be in writing and specify the grounds for the appeal. A final written determination on the appeal shall be made by the hearing panel or hearing officer designated pursuant to Public Resources Code §§44308 or 44309, whichever is applicable, no later than 60 days after the EA's receipt of the applicant's appeal.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code. Reference: Sections 43000-45802, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).
2. Change without regulatory effect amending section filed 10-17-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 42).

§ 21620. CIWMB—Change in Design or Operation (New).

(a) This section applies to any operator proposing to make a change in the design (as defined in subsection 21663(a)(1)) or operation (as defined in subsection 21663(a)(2)) of the facility, where such change is subject to the authority of the EA acting pursuant to the Integrated Waste Management Act or regulations promulgated under such Act and one of the following categories apply: (1) Minor Change — the change qualifies as a minor change pursuant to §21620(a)(1), in which case the operator shall comply with §21620(a)(1)(F); (2) RFI Amendment — the EA has determined that an amendment to the RFI is required for the change, in which case the operator shall comply with §21620(a)(2); (3) Modified Permit — the EA has determined that the solid waste facilities permit requires modification pursuant to §21665(d), in which case the operator shall

comply with §21620(a)(3); or (4) Revised Permit — the EA has determined that the solid waste facilities permit requires revision pursuant to §21665(e) or §21620(a)(4), in which case the operator shall comply with §21620(a)(4).

This section does not apply to changes to the facility, where such a change is not subject to the authority of the EA acting pursuant to the Integrated Waste Management Act or regulations promulgated under such Act.

(1) Minor Changes

An operator may implement a minor change without EA review and approval if all of the criteria set forth in subdivisions (A) through (D) are met and the operator notifies the EA of the minor change as required under subdivision (F):

(A) the change is subject to the authority of the EA acting pursuant to the Integrated Waste Management Act or regulations promulgated under such Act; and

(B) the change is consistent with State minimum standards pursuant to Chapter 3 of this subdivision or applicable minimum standards in Title 14 (commencing with §17200), and including financial assurances and operating liability criteria pursuant to Chapter 6 of this subdivision if applicable; and

(C) the change is consistent with the terms and conditions in the current solid waste facilities permit; and

(D) the change does not conflict with the design and operation of the facility as provided in the current RFI pursuant to §21600, 14 CCR §§17346.5, 17863, 17863.4, 18221.6, 18223.5, or 18227.

(E) Provided that they satisfy the criteria set forth in subdivisions (a)(1)(A–D), minor changes include, but are not limited to, the following:

(i) Correction of typographical errors in any documents/documentation submitted by the owner or operator.

(ii) Changes in the training plan that do not affect the type or decrease the amount of training given to employees.

(iii) Changes in any name and phone number, mailing address, or other contact information that does not include a change of the owner or operator.

(iv) Changes in emergency equipment (e.g., used for spill or release response) with the same functionally equivalent equipment at the same or higher level of quality.

(v) Replacing equipment that consists of functionally equivalent components and specifications as the equipment being replaced, which does not cause any change to location or design from the formerly used equipment.

(vi) Changes in procedures for cleaning or decontamination of facility equipment or structures.

(vii) Changes in tanks used for storage of materials utilized as part of the operation of the facility such as fuel, motor oil, and water without a change in location.

(viii) Changes in the rental company or location of where the back–up equipment may be sought.

(ix) Replacement of an existing environmental or operational monitoring point that has been damaged or rendered inoperable, without change to location or design of the monitoring point.

(x) Updated changes to other regulatory agency documents that are included by reference in a RFI only.

(xi) Changes in containers used for temporary storage of materials separated for recycling.

(xii) Change in narrative information (e.g., background information) outside the permitted boundary.

(xiii) Change to facility signage wording.

(xiv) Changes to improve personnel protective equipment and other safety procedures.

(xv) Changes to traffic patterns on site that do not affect off–site traffic, and/or adjacent properties.

(xvi) Changes to adjacent land use map.

(xvii) Change in location of facility records.

(xviii) Changes in name, address, or phone number of contact in post–closure plan.

(xix) Changes to equipment maintenance operations associated with the operation of the facility.

(xx) Acquisition of property adjacent to the facility if not used for solid waste activities.

(xxi) Updated changes to documents that are included by reference in a permit or RFI.

(xxii) Regulation re–numbering as referenced in RFI.

(F) the operator shall notice the EA at the time of the change or within 30 days after the change has been made, and the following provisions shall apply:

(i) the notice shall be in writing and delivered to the EA by regular mail, e–mail, or fax;

(ii) the operator shall identify the minor change in the notice and indicate the effective date of the change;

(iii) the notice is for informational purposes only and is not subject to EA compliance measures; however, if the EA determines at a later date that the change does not meet the criteria for minor change, the EA shall provide a finding to the operator in writing as to why the change did not qualify as a minor change and the EA shall require the operator to comply with all applicable requirements; and

(iv) During the regular permit review, the EA shall review the minor change notices and determine which should be incorporated into the RFI.

(2) Amendment to Report of Facility Information

For those changes in design or operation that do not qualify under subdivision (a)(1) and that require an amendment to the RFI, the operator shall file an amendment to the RFI with the EA at least 180 days prior to the proposed change unless otherwise determined by the EA. Notwithstanding, the EA may determine, based on consultation with the applicant and review of the RFI amendment, that the change meets the criteria in §21665(c), in which case the applicant may file an application less than 180 days prior to making the proposed change. Proposed RFIs or amendments to the RFI shall be accompanied by an application form. All amendments shall be submitted as specified in §21570. The applicant shall only submit those items listed in §21570(f) that have changed or are proposed to change, unless otherwise specified by the EA. Such amendments or lack thereof may become the basis for changes in the solid waste facilities permit as determined by the EA as described in §21665. The operator shall have the right to appeal the EA's decision before the hearing panel or hearing officer.

(3) Modified Permit

If the change in design or operation does not qualify under subdivision (a)(1) or (a)(2), but does meet the requirements of §21665(d) for a modified solid waste facilities permit, the operator shall submit an application package for a modified solid waste facilities permit pursuant to §21570 which the EA shall process pursuant to §21650.

(4) Revised Permit

All other changes in design or operation require a revised solid waste facilities permit pursuant to §21665(e). The operator shall submit an application package for a solid waste facilities permit revision pursuant to §21570 which shall be processed by the EA pursuant to §21650.

Notwithstanding anything to the contrary in §21665(e), the following changes in design or operation are considered significant and require an application for a revised permit:

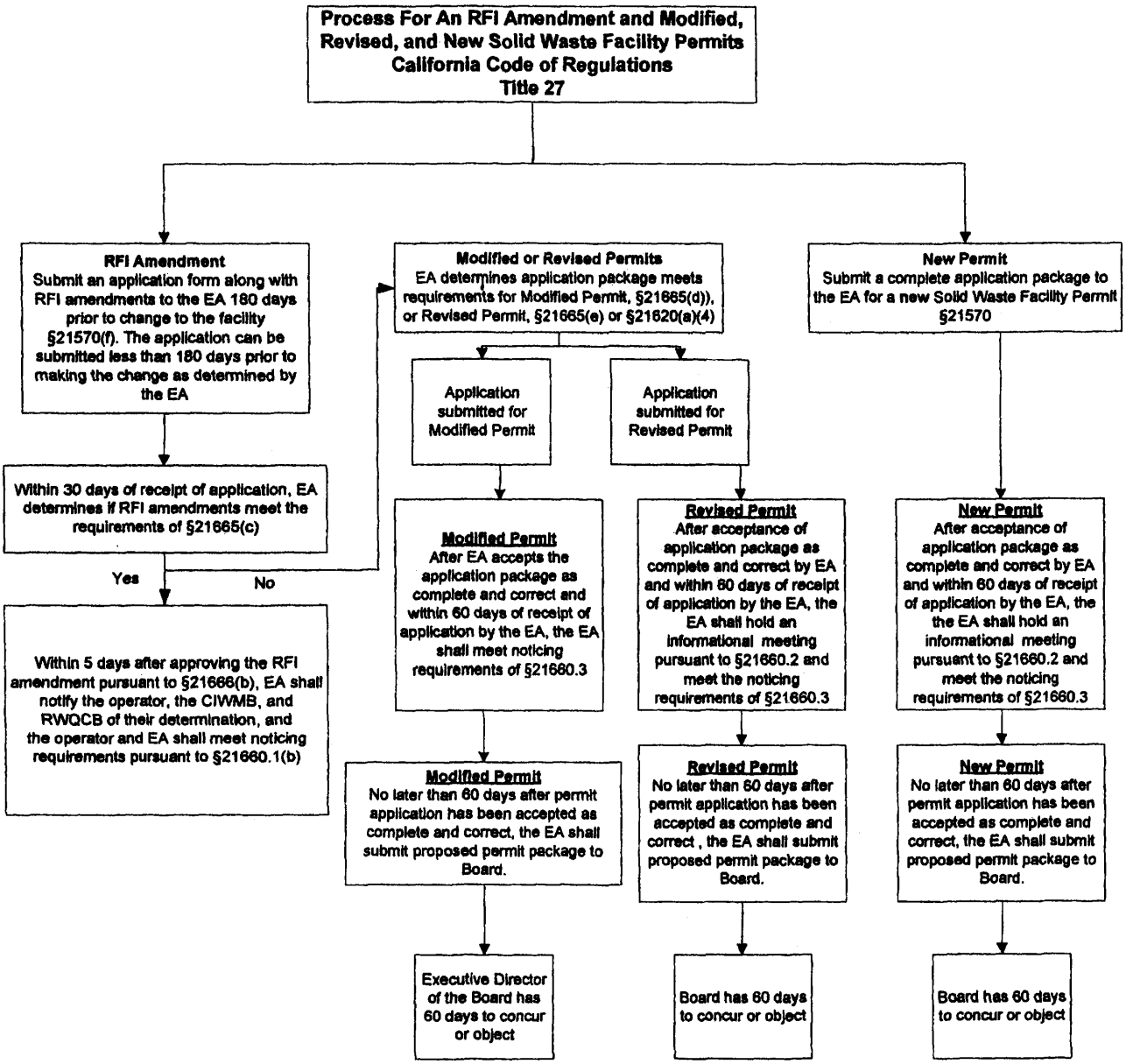
(A) Increase in maximum amount of permitted tonnage of all waste received.

(B) Increase in the facility's permitted acreage.

(C) Increase in the permitted hours of operation.

(D) For landfills, increase in permitted disposal footprint and/or permitted (final grade) maximum overall height.

Note: changes relative to only those items described in the RFI and not addressed in the current solid waste facilities permit as written by the LEA may be requested, after consultation, through an application pursuant to §21666. To help better understand the process for RFI amendment, and modified, revised and new solid waste facilities permits, but not to supplant the regulations, a flow diagram is provided below:



NOTE: Authority Cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43103, 44004 and 44012, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Change without regulatory effect amending subsection (a) filed 2–5–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).
3. Amendment of section heading and section filed 3–14–2007; operative 4–13–2007 (Register 2007, No. 11).
4. Change without regulatory effect amending subsection (a)(2) filed 10–17–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 42).

§ 21630. CIWMB—Change of Owner, Operator, and/or Address. (T14:§18216 & 18217)

(a) Owners and/or operators of a facility who plan to sell, encumber, transfer or convey the ownership or operation of the facility or land to a new owner or operator, or who plan to change their address shall notify the EA and the CIWMB 45 days prior to the anticipated transfer.

[*Note: Although it is similar to the previous requirement for a change in owner, this significantly reduces the requirements for incorporating a new operator into the SWFP.*] This notification shall include names, address(es), where notice can be sent and phone number(s) of the new owner/operator.

(b) The anticipated owner/operator shall provide the following:

(1) Documentation that the anticipated owner/operator meet the financial assurance and operating liability requirements.

(2) A signed affidavit certifying that the anticipated owner/operator has read the governing permit and conditioning documents and will operate in accordance with the existing SWFP terms and conditions and conditioning documents and that all new information submitted is correct.

(3) Amendments to the RFI which reflect the change in owner/operator or address.

(c) any information provided pursuant to ¶(a) shall not be a matter of public record and shall be considered confidential information until such time as the owner encumbers, sells, transfers, or conveys the property.

(d) Every applicant for a permit, every operator of a solid waste facility, and every owner of property on which a facility is located shall notify the EA and the CIWMB of each change of address. Notice shall be given within seven days after the change is effective and shall be given on a form specified by the CIWMB.

NOTE: Authority cited: Sections 40502, 43020, and 43021, Public Resources Code. Reference: Section 6255, Government Code; and Sections 43020, 43021 and 43000–45802, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21640. CIWMB—Review of Permits. (T14:§18213)

(a) Except as provided in §21680, all full SWFPs shall be reviewed and, if necessary, revised, from the date of last issuance at least once every five years.

(b) No less than 150 days before the permit is due for review, the operator shall submit an application for permit review. The application shall be made in the manner specified in §§21570 and 21590 and shall contain the following:

(1) Identify the proposed changes in design and operation; and

(2) Updated amendments to the Report of Facility Information (RFI);

(3) For disposal sites only, the updated amendments shall include an estimate of the remaining site life and capacity;

(4) For disposal sites only, an amended closure plan as specified in §§21780, 21865, and 21890.

NOTE: Authority Cited: Sections 40502 and 43020, Public Resources Code. Reference: Sections 43103 and 44015, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of subsections (b)(1)–(3) and new subsection (b)(4) filed 2–25–2003; operative 2–25–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 9).

Article 3. CIWMB—Enforcement Agency (EA) Requirements

§ 21650. CIWMB—EA Processing Requirements. (T14:§18203)

(a) Upon its receipt, the EA shall stamp the application package with the date of receipt. The EA shall examine the application package to determine whether it meets the requirements of §21570. If the EA finds the package meets the requirements of §21570, the application package shall be accepted and stamped with the date of acceptance. Notwithstanding any other provision of this division, the application package shall be deemed filed on the date of acceptance.

(b) The EA shall either accept or reject the application package within thirty days of its receipt.

(c) Within five days of filing, the EA shall notify the CIWMB, and the RWQCB if applicable, of its determination. The EA shall submit as its notification to the CIWMB a copy of the accepted application form. The EA shall also forward a copy of the application form to the RWQCB if applicable.

(d) If the EA determines that the application package does not meet the requirements of §21570, it shall reject and not file the application, and it shall, within five days of determination, so notify the applicant, the CIWMB, and the RWQCB if applicable, enumerating the grounds for rejection. The EA shall include in its notification to the CIWMB a copy of the rejected application form. The application package, together with the notice of rejection, shall be kept in the EA's file.

(e) After acceptance of an application for a new or revised full solid waste facilities permit as complete and correct and within 60 days of receipt of the application by the EA, the EA shall notice and conduct an informational meeting as required by §§21660.2 and 21660.3. For modified solid waste facilities permits, the EA shall provide notice as required by §21660.3 after finding the permit application complete and correct and within 60 days of receipt of the application by the EA.

(f) Upon request of the applicant, the EA may accept an incomplete application package. As a condition of acceptance, the operator and the EA shall waive the statutory time limit contained in Public Resources Code §44009. *[Note: Section 21580 is the section for processing the applicant's waiver of timeframes and timing for noticing and holding an informational meeting after the EA deems a previously submitted incomplete package to be complete.]* The EA shall notify the applicant within 30 days if the applicant's request for review under this subsection has been accepted. If the application package does not conform with the requirements of §21570 within 180 days from the date of the EA agreeing to accept the package as incomplete the EA shall reject the application package, pursuant to ¶(d). If the EA finds the application package meets the requirements of §21570, the application package shall be accepted pursuant to ¶(c).

(g) No later than 60 days after the application package has been accepted as complete and correct and after conducting an informational meeting if required by §§21660.2 and 21660.3, the EA shall mail to the CIWMB the following:

(1) A copy of the proposed solid waste facilities permit;

(2) The accepted application package;

(3) A certification from the EA that the solid waste facilities permit application package is complete and correct, including a statement that the RFI meets the requirements of §21600, 14 CCR §§17863, 17863.4, 17346.5, 18221.6, 18223.5, or 18227.

(4) Documentation, if applicable, of the applicant's compliance with any RWQCB enforcement order or the status of the applicant's WDRs, as described in Public Resources Code §44009;

(5) Any written public comments received on a pending application and a summary of comments received at the informational meeting and, where applicable, any steps taken by the EA relative to those comments. Subsequent to the transmittal of the proposed solid waste facilities permit, the EA shall, within five (5) days of receipt, provide a copy of any additional written public comments to the CIWMB.

(6) A solid waste facilities permit review report which has been prepared pursuant to §21675, within the last five years.

(7) EA finding that the proposed solid waste facilities permit is consistent with and is supported by existing CEQA analysis, or information regarding the progress toward CEQA compliance.

(h) At the time the EA submits the proposed solid waste facilities permit to the CIWMB, the EA shall submit a copy of the proposed solid waste facilities permit to the applicant, the RWQCB if applicable, and any person so requesting in writing. The copy of the proposed solid waste facilities permit provided to the applicant shall also be accompanied by a form for request for hearing, which the applicant may use to obtain a hearing before a hearing panel or hearing officer to challenge any condition in the solid waste facilities permit. In cases where a hearing panel or hearing officer may be requested, the EA shall notify the CIWMB within seven days of being noticed by the operator.

(i) The proposed solid waste facilities permit shall contain the EA's conditions. The proposed solid waste facilities permit shall not contain conditions pertaining solely to air or water quality, nor shall the conditions conflict with conditions from WDRs issued by the RWQCB.

[Note: The process to obtain a full solid waste facilities permit might not include the RWQCB if the facility is other than a landfill or disposal site. Therefore, EA submittals of forms and documents to the RWQCB will be made if applicable to the type of facility.

When writing conditions pursuant to 21650(i) the EA shall take into consideration PRC §44012, which requires the EA to ensure that primary consideration is given to protecting public health and safety and preventing environmental damage, and the long–term protection of the environment. The EA may also take into consideration other permits, entitlements and approvals when writing terms and conditions (e.g., conditional use permit, zoning, Air Pollution Control District/Air Quality Management District permits to construct and operate, Department of Toxic Substances Control hazardous waste facility permit, Department of Fish and Game permits, Coastal Commission approvals, Army Corps of Engineers permit, Federal Aviation Administration notification, and other required local and county ordinances/permits)]

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code. Reference: Sections 40055, 43103 and 44001–44014, Public Resources Code.

HISTORY

1. New article 3 (sections 21650–21680) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

2. Change without regulatory effect amending subsections (f)(3), (f)(5) and (f)(6) filed 3–8–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 11).
3. Amendment of section heading and section filed 3–14–2007; operative 4–13–2007 (Register 2007, No. 11).
4. Change without regulatory effect amending subsection (h) filed 10–17–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 42).

§ 21655. CIWMB—Amendments to Application Package. (T14:§18202(b)(c))

(a) If the EA determines that the amendment submitted pursuant to §21610 fundamentally alters the nature of the application, which requires evaluation, within twenty days of the filing of the amendment, the EA may deem the amendment a new application. This amendment will supersede the previous application and incorporating unamended portions of the previous application, in which case the time for the EA to act on the amendment shall be computed from the date of filing of the amendment. Any such determination by the EA shall be documented within five days of the determination by written notice to the applicant.

(b) If the amendment is submitted to the EA eleven days or more after the date the EA has stamped the package as received, the 30 day review period may be extended as long as the EA still complies with ¶(a).

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code. Reference: Sections 43103 and 44001–44006, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Change without regulatory effect amending section filed 3–8–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 11).

§ 21660. CIWMB—Public Notice and informational Meeting Requirements.

This Section discusses the requirements for giving public notice and conducting informational meetings as defined in §21563(d)(4) when an application for an RFI amendment, modified solid waste facilities permit, revised solid waste facilities permit, or new solid waste facilities permit is submitted to an EA for consideration. Because the processing time for RFI amendments is less than it is for permits, the noticing requirements for RFI amendments are addressed separately from modified, revised, and new solid waste facilities permits, which are addressed together. For new and revised full solid waste facilities permits there are additional requirements for conducting an informational meeting. Under ¶(b) below is an index locator of the specific subsections for specific solid waste facilities permit applications.

(a) The following provisions shall be applied to applications for new solid waste facilities permits, revised and modified solid waste facilities permits, and RFI amendments.

(1) The EA shall maintain a current list of all pending applications at its offices. The list shall be publicly available during normal business hours.

(2) Within 5 days after the EA approves the RFI amendment and within 5 days from the EA receiving the application for new, revised, and modified permits, the EA shall mail written notice of the approval of the RFI amendment or written notice of the receipt of an application for a new, revised, or modified permit to every person who has submitted a written request for such notice.

(3) Written public comments on an application shall be retained by the EA.

(b) Specific provisions relating to the content of notices, distribution and publishing of notices, and informational meetings may be found in subsequent sections as follows:

Content of Notice for RFI Amendment Applications §21660.1(a)
Publication of Notice for RFI Amendment Applications §21660.1(b)
Informational Meeting for New and Revised Full Solid Waste Facilities Permit Applications §21660.2
Contents of Notice of New, Revised, and Modified Permit Applications and EA Conducted Informational Meeting §21660.3(a)
Notice Distribution for New, Revised, and Modified Permit Applications and EA Conducted Informational Meeting §21660.3(b)
Substitute Meetings in Place of EA–Conducted Informational Meetings §21660.4
Content of Notice of New and Revised Full Permit Applications Using Substituted Meeting or Hearing §21660.4(a)
Notice Distribution of New and Revised Full Permit Application Using Substituted Meeting or Hearing §21660.4(b)

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43020, 43021 and 43000–45802, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading and section filed 3–14–2007; operative 4–13–2007 (Register 2007, No. 11).

§ 21660.1. Notice for RFI Amendment Applications.

(a) Content of Notice for RFI Amendment Applications

At a minimum, the public notice prepared pursuant to §21660.1(b) for RFI amendment applications approved by the EA shall include the following information:

(1) Name and location of facility applying for the RFI amendment.

(2) Solid waste facilities permit/facility number.

(3) Date RFI amendment application was received by the EA.

(4) Description of the change proposed as an RFI amendment.

(5) Date the EA approved the RFI amendment and the EA findings pursuant to §21665(c).

(6) Information on the availability of appeals to challenge the EA's approval of the RFI amendment pursuant to Public Resources Code §44307.

(7) Statement indicating where additional information about the approved application is available.

(8) EA and operator contact information.

(b) Publication of Notice for RFI Amendment Applications

In addition to the EA requirements in §21660(a), the operator shall prepare within 5 days after the EA approves the application and post for at least 10 days a temporary notice at the facility entrance that meets the requirements of §21660.1(a); in addition the EA shall ensure that notices are distributed for RFI amendment applications as specified below that contain information pursuant to §21660.1(a). The publication (in hard copy or electronically) shall occur for at least 10 days at one or more of the following locations within 5 days after the EA approves the application:

(1) Posting of notice prepared and posted by the EA on EA's or the Local Jurisdiction's public notice board, if one exists, or

(2) Posting of notice prepared by the EA and posted by the operator on facility's web site, if one exists, or

(3) Posting of notice prepared and posted by the EA on EA's web site, if one exists, or

(4) Posting of notice prepared by the EA and posted by the Board on the Board's web site, provided that the Board receives a copy of the notice 3 days after the EA approves the application in order to allow the Board time for processing and posting of the notice.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43103, 44004 and 44012, Public Resources Code.

HISTORY

1. New section filed 3–14–2007; operative 4–13–2007 (Register 2007, No. 11).

§ 21660.2. Informational Meeting for New and Revised Full Solid Waste Facilities Permit Applications.

(a) EA shall conduct an informational meeting for all new and revised full solid waste facilities permit applications as determined by §21665. The EA shall hold an informational meeting on an application for a new full solid waste facilities permit or an application for a full solid waste facilities permit revision required under this Article. The EA may require the operator(s) of the facility or facilities that are the subject of the informational meeting to pay all costs incurred by the EA in connection with

the meeting. The informational meeting may be combined with another public meeting in which the EA participates that meets the criteria as specified in §§21660.2(b) and 21660.2(c).

(b) The informational meeting shall be held after acceptance of the application package as complete and correct by the EA and within 60 days of receipt of the application by the EA. The EA shall submit to the Board a copy of the informational meeting notice at time of issuance. The Board shall post the notice on its web site as a way to further inform the public.

(c) The informational meeting shall meet the following criteria:

(1) The meeting shall be held in a suitable location not more than one (1) mile from the facility that is the subject of the meeting; if no suitable and available location exists within one (1) mile of the facility, as determined by the EA, the EA may designate an alternative suitable location that is as close to the facility as reasonably practical.

(2) The meeting shall be held on a day and at a time that the EA determines will enable attendance by residents living in the vicinity of the facility that is the subject of the meeting.

(3) EAs may undertake additional measures to increase public notice and to encourage attendance by any persons who may be interested in the facility that is the subject of the meeting, including but not limited to additional posting at the facility entrance, noticing beyond 300 feet if the nearest residence or business is not within 300 feet of the site, posting in a local newspaper of general circulation, and multilingual notice and translation, and multiple meeting dates, times and locations.

(d) The EA may substitute a previous public meeting or hearing for the requirements in this Section pursuant to §21660.4 if the applicant does not object.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43103, 43213, 44004 and 44012, Public Resources Code.

HISTORY

1. New section filed 3-14-2007; operative 4-13-2007 (Register 2007, No. 11).

§ 21660.3. Notice of New, Revised and Modified Permit Applications and EA-Conducted Informational Meeting.

(a) Contents of Notice of New, Revised and Modified Permit Applications and EA-Conducted Informational Meeting

The public notice prepared pursuant to §21660.3(b) for new, revised or modified solid waste facilities permit applications shall include the following information:

(1) Name and location of the facility or proposed facility.

(2) Solid waste facilities permit/facility number (for existing permits).

(3) Purpose of the public informational meeting for new and revised full permits.

(4) Date the EA accepted the solid waste facilities permit modification/revision/new permit application.

(5) Description of the solid waste facilities permit modification/revision(s)/new permit.

(6) EA's preliminary determination pursuant to §21665 for modified and revised permits.

(7) Statement indicating where additional information about the application is available (date, time, and location) for public review.

(8) Date, time, location of the public informational meeting for new and revised full permits.

(9) Options for submitting comments.

(10) Information on the availability of appeals to challenge the EA's issuance or denial of a modified, revised, or new permit pursuant to Public Resources Code §44307.

(11) EA and operator contact information.

(b) Notice Distribution for New, Revised and Modified Permit Applications and EA-Conducted Informational Meeting

In addition to the requirements in §21660(a) the EA shall prepare a meeting notice that contains information pursuant to §21660.3(a) and distribute the notice as follows:

(1) Posting of notice prepared and posted by the EA on the EA's or the local jurisdiction's public notice board, if one exists, and

(2)(A) For new, revised and modified full permits, the EA shall post the notice in the manner set forth in Government Code §65091, subdivisions (a)-(c), inclusive and with Public Resources Code §44004, subdivisions (h)(1)(A-C). The EA shall post the notice after finding the permit application complete and correct and within 60 days of receipt of the application by the EA pursuant to §21650.

(B) For new registration and standardized permits, the EA shall post the notice in the manner set forth in Government Code §65091, subdivisions (a)-(c), inclusive and with Public Resources Code §44004, subdivisions (h)(1)(A-C), except the EA shall post the notice within 5 days after finding the permit application complete and correct pursuant to §18104.2 for registration and §18105.2 for standardized.

(3) For new and revised full permits, the EA shall mail or deliver the notice 10 days prior to the date of the informational meeting to the governing body of the jurisdiction within which the facility is located and to the State Assembly Member and the State Senator in whose districts the facility is located.

(4) The EA may undertake additional measures to increase public notice and, for new and revised full permits, to encourage attendance by any persons who may be interested in the facility that is the subject of the informational meeting. These additional measures include but are not limited to additional posting at the facility entrance, noticing beyond 300 feet if the nearest residence or business is not within 300 feet of the site, posting in a local newspaper of general circulation, and multilingual notice and translation, and multiple meeting dates, times and locations.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43103, 44004 and 44012, Public Resources Code.

HISTORY

1. New section filed 3-14-2007; operative 4-13-2007 (Register 2007, No. 11).

§ 21660.4. Substitute Meetings in Place of EA-Conducted Informational Meetings.

The EA may substitute the meeting required under §21660.2 with a previously held public meeting on the same project, as described in the solid waste facilities permit application package and associated CEQA documents, if the public meeting took place within one year prior to the date the EA accepted the application as complete and correct, and the applicant does not object. In order for this substitution to be valid, the EA must have been involved in the previously held meeting to the degree of being present, recognized by the presider of the meeting, and available to answer questions regarding solid waste facilities permitting specifications from the public, other entities, or officials in attendance at the meeting.

(a) Content of Notice of New and Revised Full Permit Applications Using Substituted Meeting or Hearing

When a previously held public meeting is to be used to substitute for the meeting requirements in §21660.2 the EA shall prepare and distribute a notice pursuant to §21660.4(b) regarding the application for a new or revised full solid waste facilities permit as follows:

(1) Name and location of the facility or proposed facility.

(2) Solid waste facilities permit/facility number (for existing permits).

(3) Date and purpose of previously held public informational meeting.

(4) Date the EA accepted the solid waste facilities permit revision/new full permit application.

(5) Description of the solid waste facilities permit revision(s)/new full permit.

(6) EA's preliminary determination pursuant to §21665.

(7) Statement indicating where additional information about the application is available (date, time, and location) for public review.

(8) Options for submitting comments.

(9) Information on the availability of appeals to challenge the EA's issuance or denial of a revised or new permit pursuant to Public Resources Code §44307.

(10) EA and operator contact information.

(b) Notice Distribution for New and Revised Full Permit Application for Substituted Meeting or Hearing

In addition to the requirements in §21660(a) the EA shall prepare a notice that contains information pursuant to §21660.4(a) and distribute the notice as follows:

(1) Posting of notice prepared and posted by the EA on the EA's or the local jurisdiction's public notice board, if one exists, and

(2) 10 days prior to the EA making a final determination, the EA shall post the notice in the manner set forth in Government Code §65091, subdivisions (a)–(c), inclusive and with Public Resources Code §44004, subdivisions (h)(1)(A–C), and

(3) 10 days prior to the EA making a final determination, the EA shall mail or deliver the notice to the governing body of the jurisdiction within which the facility is located and to the State Assembly Member and the State Senator in whose districts the facility is located, and

(4) The EA may undertake additional measures to increase public notice to any persons who may be interested in the application, including but not limited to additional posting at the facility entrance, noticing beyond 300 feet if the nearest residence or business is not within 300 feet of the site, posting in a local newspaper of general circulations, and multilingual notice.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43103, 44004 and 44012, Public Resources Code.

HISTORY

1. New section filed 3–14–2007; operative 4–13–2007 (Register 2007, No. 11).

§ 21663. CIWMB—Issuance of Solid Waste Facilities Permit. (T14:§18208)

(a) Upon compliance with the CEQA and this article, and upon the concurrence of the CIWMB for new and revised solid waste facilities permits, and the Executive Director of the CIWMB for modified solid waste facilities permits, the EA shall issue the solid waste facilities permit as provided in Public Resources Code §44014. The solid waste facilities permit shall specify the person authorized to operate the facility and the boundaries of the facility. The solid waste facilities permit shall contain such conditions as are necessary to specify a design and operation for which the applicant has demonstrated in the proceedings before the EA the ability to control the adverse environmental effects of the facility.

(1) As used herein, "design" means the layout of the facility (including numbers and types of fixed structures), total volumetric capacity of a disposal site [or total throughput rate of a transfer/processing station, transformation facility, or composting facility] vehicular traffic flow, and patterns surrounding and within the facility, proposed contouring, and other factors that may be considered a part of the facility's physical configuration.

(2) As used herein, "operation" means the procedures, personnel, and equipment utilized to receive, handle and dispose of solid wastes and to control the effects of the facility on the environment.

NOTE: Authority cited: Sections 40502 and 43200, Public Resources Code. Reference: Sections 43103, 44012 and 44014, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading and subsection (a) filed 3–14–2007; operative 4–13–2007 (Register 2007, No. 11).

§ 21665. CIWMB—Processing Proposed Changes at Solid Waste Facility. (New)

(a) The applicant shall submit an application package pursuant to §§21570 and 21600, or 14 CCR §§18221.6, 18223.5, 18227, or 17863.4 to the EA. The submittal shall contain only those items listed in §21570(f) that have changed, are proposed for change or as otherwise specified by the EA.

(b) The EA shall review the applicant's proposed change to determine if such a change qualifies as an amendment(s) to the RFI or is the basis for changes in the solid waste facilities permit in which case the EA shall determine if the proposed change will require a solid waste facilities permit modification or a solid waste facilities permit revision pursuant to the provisions provided in §21665(c), (d), and (e) as follows:

(1) RFI Amendment(s) ¶(c)
(2) Modified Solid Waste Facilities Permit ¶(d)
(3) Revised Solid Waste Facilities Permit ¶(e)

(c) RFI Amendment(s) — The EA may approve and file the proposed change as an amendment(s) to the RFI without revising or modifying the solid waste facilities permit if all of the following criteria are met:

(1) the EA finds that the proposed change is consistent with all applicable certified and/or adopted CEQA documents in that no subsequent EIR or Negative Declaration or supplemental EIR is warranted pursuant to Title 14, Chapter 3, Article 11, §§15162 or 15163, or if the EA finds that the change being requested is exempt from the requirements of CEQA pursuant to Title 14, Chapter 3, Article 5, §§15060 and 15061;

(2) the EA has deemed the proposed change acceptable and consistent with, but not limited to, State minimum standards pursuant to Chapter 3 of this subdivision or applicable minimum standards in Title 14 (commencing with §17200), and including financial assurances and operating liability criteria pursuant to Chapter 6 of this subdivision if applicable; and

(3) the EA finds the changes do not conflict with the terms and conditions in the current solid waste facilities permit.

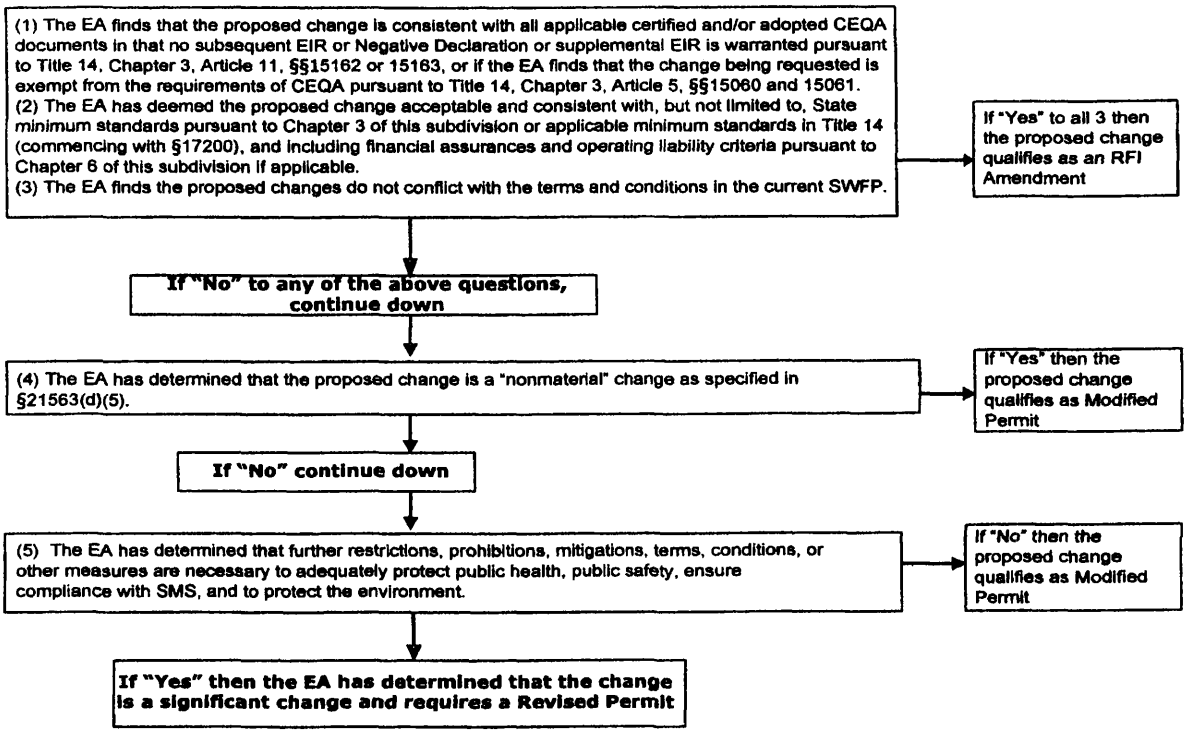
(d) Modified Solid Waste Facilities Permit — The EA may determine that the proposed change qualifies as a modified solid waste facilities permit if the proposed change does not meet all of the criteria specified under ¶(c) and meets either of the following criteria:

(1) the EA determines that the proposed change is a nonmaterial change as specified in §21563(d)(5), or

(2) the EA determines that the proposed change is such that the solid waste facilities permit does not need to include further restrictions, prohibitions, mitigations, terms, conditions or other measures to adequately protect public health, public safety, ensure compliance with State minimum standards or to protect the environment.

(e) Revised Solid Waste Facilities Permit — The EA shall determine that the proposed change is a significant change as defined in §21563(d)(6) and requires a revised solid waste facilities permit if the proposed change does not meet the criteria for an RFI Amendment as specified under ¶(c) or a modified solid waste facilities permit as specified under ¶(d).

Note: To help the affected public more readily understand the process used by the EA to determine whether a proposed change qualifies as an RFI amendment, modified solid waste facilities permit, or revised solid waste facilities permit, a decision tree is provided below; this diagram does not supplant any of these regulations:



NOTE: Authority Cited: Sections 40502, 43020, and 43021, Public Resources Code. Reference: Sections 43103, 44004 and 44012, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Change without regulatory effect amending subsections (a), (c)(2), (e) and (f) filed 3–8–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 11).
3. Change without regulatory effect amending subsections (a), (e) and (f) filed 2–5–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).
4. Amendment of section heading and section filed 3–14–2007; operative 4–13–2007 (Register 2007, No. 11).

§ 21666. CIWMB — Processing Report of Facility Information (RFI) Amendment(s).

(a) The EA shall determine if the RFI amendment(s) meet the requirements of §21665(c) within 30 days of receipt and either accept or reject some or all of the amendment(s).

(b) Within 5 days of acceptance for filing of the RFI amendment application package, the EA shall notify the operator, the CIWMB and the RWQCB, if applicable, of its determination. The EA shall include in their notification to the CIWMB, a copy of the accepted RFI amendment(s), and a copy of the application form specified in §21570 along with the EA determination specified in ¶(a).

[Note: Submittal of an Application Form in §21666 is for tracking purposes.]

(c) In cases where some or all of the amendment(s) do not follow the criteria set in §21665(c), the EA may either require the operator to submit an application for a modified or revised solid waste facilities permit pursuant to §21570, or deny the proposed amendment(s), in which case the applicant shall have thirty (30) days within which to appeal the decision to the hearing panel.

NOTE: Authority cited: Sections 40502 and 43200, Public Resources Code. Reference: Sections 43103, 44012 and 44014, Public Resources Code.

HISTORY

1. New section filed 3–14–2007; operative 4–13–2007 (Register 2007, No. 11).

§ 21670. CIWMB—Change of Owner Operator, and/or Address. (T14:§18216 and 18217)

(a) The EA shall review the submitted notification prescribed in §21630 and any available records to determine if the current and anticipated operators/owners have provided the required information and that the facility is and will be able to operate within the terms and conditions of their permit and RFI. If the anticipated operator/owner has satisfied all of the requirements and the EA has obtained a written confirmation from the CIWMB that the anticipated owner/operator has complied with PRC §43040 and §43600, the EA shall notify the operator and CIWMB within 30 days of receipt of the notification. Then, the EA has 15 days (from informing the operator and CIWMB that the notification was adequate) to send the operator and CIWMB a copy of the changed permit, to reflect the changes in the name of the owner, operator and / or facility name. This section does not authorize the EA to change any other aspect of the SWFP, including the issuance date or permit review date.

(b) If the EA determines that the operator/owner has not provided adequate documentation or if the EA has reason to believe that the anticipated operator or owner will be operating outside the terms and conditions of the governing SWFP, the EA shall inform the operator and the CIWMB, in writing, within 30 days of receipt of the notification. The EA shall provide the basis for the notification being determined inadequate.

(c) Any information provided pursuant to ¶(a) shall not be a matter of public record and shall be considered confidential until such time as the owner's encumbering, selling, transferring, or conveying of the property, occurs.

(d) This action will not take the place of a permit review or revision pursuant to §§21620 or 21640.

(e) Every operator of a solid waste facility, and every owner of property on which a facility is located shall notify the EA and the CIWMB of each change of address. The EA shall keep this information on file.

NOTE: Authority cited: Sections 40502, 43020, and 43021, Public Resources Code. Reference: Sections 6255, Government Code; and Sections 43020, 43021 and 43000–45802, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21675. CIWMB—Review of Solid Waste Facilities Permits. (T14:§18213)

(a) Except as provided in §21680, all full solid waste facilities permits shall be reviewed and if necessary modified or revised, from the date of last issuance at least once every five years. The EA shall give the operator notice of the five year review no less than 180 days before it is due.

(b) The EA shall review the operator's submittal in accordance with §21640 and prepare a solid waste facilities permit review report.

(1) The solid waste facilities permit review report shall include documentation that the following have been reviewed: the operator's submittal pursuant to §21640(b), the current solid waste facilities permit and conditioning documents, all RFI amendments since the last solid waste facilities permit review, the CEQA, and any other information in the record to identify any changes.

(2) The solid waste facilities permit review report shall determine any actions required by the operator.

(c) A copy of the solid waste facilities permit review report shall be submitted to the CIWMB within 150 days from receipt of the application for solid waste facilities permit review.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code. Reference: Sections 43103 and 44015, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading and section filed 3–14–2007; operative 4–13–2007 (Register 2007, No. 11).

Article 3.1. CIWMB—CIWMB Requirements

§ 21680. CIWMB—Reinstatement of Suspended and Revoked Permits. (T14:§18212)

(a) If a permit has been suspended, it is reinstated without further action on the date specified in the suspension or upon completion of specified acts. A suspended permit shall be due for review five years after its original issuance or last review or revision, including the period of suspension.

(b) If a permit has been revoked, it may be reinstated by application, no less than one year after the effective date of the revocation and no less than one year after any similar application. Such an application shall be made in the manner specified in §21570 and shall be handled in the same manner as an application for a new permit; however, nothing in this section is intended to prevent the EA, hearing panel or hearing officer, or CIWMB from considering the revocation and grounds therefor in reviewing the application. A permit reinstated after revocation shall be due for review five years after its reinstatement.

(c) No less than one year after the effective date of the revocation and no less than one year after any similar petition, a person whose permit has been revoked may petition the EA for reduction of the penalty. If the petition is denied, the person is entitled to a hearing before the hearing panel or hearing officer.

[*Comment: Suspension of a permit is a punitive or remedial action not intended to deprive the permit holder indefinitely of the right to operate. Revocation of a permit, a more severe action, closes the facility for at least one year, at the end of which the holder of the revoked permit may apply for reinstatement in the same manner as one applies for a permit for a new facility.*]

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code. Reference: Sections 43103, 44500–44503 and 44817, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Change without regulatory effect amending subsections (b) and (c) filed 10–17–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 42).

§ 21685. CIWMB—Proposed Solid Waste Facilities Permit; CIWMB Processing Requirements. (T14:§18207, §17608)

(a) The CIWMB shall stamp the proposed solid waste facilities permit with the date of receipt at the time the envelope is opened. The CIWMB shall consider each proposed solid waste facilities permit, any public testimony, and comments. Written comments may be submitted to the CIWMB and will become part of the CIWMB record. Such written comments shall be made available to the EA.

(b) The CIWMB shall not concur in issuance of the proposed solid waste facilities permit for new and revised solid waste facilities permits, and the Executive Director of the CIWMB for modified solid waste facilities permits, if the following information, if applicable, has not been submitted to the EA and the CIWMB pursuant to Public Resources Code §44009:

(1) Complete and correct Report of Facility Information as certified by the EA,

(2) EA's Solid Waste Facilities Permit Review Report pursuant to §21675,

(3) EA's proposed solid waste facilities permit written pursuant to this Subchapter.

(4)(A) Information that the facility is identified and described in or conforms with the County Solid Waste Management Plan (Public Resources Code §50000); and that the facility is consistent with the city or county General Plan and compatible with surrounding land use, in accordance with Public Resources Code §50000.5; or

(B) After a countywide or regional agency integrated waste management plan has been approved by the CIWMB, the EA's finding that the facility has met the requirements of Public Resources Code §50001.

(5) Documentation sufficient for the CIWMB to deem that a Preliminary or Final Closure/Postclosure Maintenance Plan is consistent with closure and postclosure maintenance state minimum standards (including, but not limited to, Chapters 3 and 4) for those portions of the plan subject to CIWMB jurisdiction, if applicable;

(i) For closure plans submitted as part of a JTD, the determination whether the plans are consistent with state minimum standards shall be made within 60 days of the plans being considered complete pursuant to §21860(c).

(ii) This preliminary determination shall constitute the staff recommendation for the Board consideration of concurrence with a solid waste facilities permit unless the application package, of which the JTD was a part, is amended or modified.

(iii) This determination is solely for the Board consideration of concurrence with a solid waste facilities permit and does not constitute any final determination for the closure plans review process pursuant to §21860.

(6)(A) Current documentation of acceptable funding levels for Financial Assurances Documentation in accordance with Chapter 6, if applicable; and

(B) Current documentation of compliance with Operating Liability Requirements, if applicable (Chapter 6).

(7) The CIWMB shall ensure the facility is operating consistent with State Minimum Standards, pursuant to Subchapter 4 of Chapter 3 of this subdivision or applicable minimum standards in Title 14 (§17200 et seq.),

(8) The EA finding that existing CEQA documentation is consistent with and supports the proposed solid waste facilities permit and RFI or supporting information indicating the EA has found that approval of the proposed solid waste facilities permit would not lead to any adverse environmental impacts and is exempt from the requirements of CEQA.

(c) The CIWMB, with respect to new and revised solid waste facilities permits, and the Executive Director of the CIWMB, with respect to modified solid waste facilities permits, shall either concur or object to the issuance of the proposed solid waste facilities permit within sixty days of receipt, except as authorized by Public Resources Code §44009, or by operator's consent. If the CIWMB or Executive Director objects to a proposed solid waste facilities permit, it shall accompany its objection with an explanation of its action, which may suggest conditions or other amendments that may render the proposed solid waste facilities permit unobjectionable; however, such suggestions do not constitute approval of the proposed solid waste facilities permit subject to incorporation of the suggestions. The Executive Director shall report to the CIWMB on his or her concurrence or denial of modified permits at its next regularly scheduled meeting or via a memo, and post this information on the CIWMB's web site or agenda.

(d) For the purposes of CIWMB's determination to concur in or to object to a proposed permit pursuant to ¶(c) above, a facility that has landfill decomposition gases exceeding the compliance levels in §§20919.5 or 20921, or at which a hazard or nuisance may exist pursuant to §20919, shall be considered to be consistent with State Minimum Standards specified in §§20919, 20919.5, and 20921 for purposes of ¶(b)(8) of this section if all of the following requirements have been satisfied with respect to the facility (for the purposes of this subsection, "facility" includes "disposal site"):

(1) The operator shall have delivered all notices to the EA and owner as required by §§20919, 20919.5, and 20937 as applicable.

(A) The site-specific compliance level applicable to the facility shall be the lesser of that specified in (i) the facility's JTD/RFI, closure and postclosure maintenance plans, or the permit for the facility, or (ii) shall be the levels specified in §§20919.5 or 20921, as applicable.

(B) The facility's compliance boundary for landfill decomposition gas migration shall be the permitted facility boundary or other alternate boundary within the permitted facility boundary approved by the EA.

(2) The EA shall have forwarded to CIWMB all notifications received pursuant to ¶(d)(1) above.

(3) Landfill gas monitoring has been and is being conducted at least monthly, at a minimum, after notice to the EA and shall continue until the operator has complied with the enforcement order issued pursuant to ¶(d)(6) below.

(4) The EA has determined that landfill decomposition gas generated by the facility does not constitute an imminent and substantial threat to public health and safety or the environment.

(A) For purposes of this section, an imminent and substantial threat to public health and safety or the environment is defined as a condition which is creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate the harm to persons, property, natural resources, or the public health or safety.

(5) The EA has determined that to come into compliance with §§20919, 20919.5, and 20921 it will take the operator longer than 90 days due to the time it takes to plan and implement appropriate corrective measures.

(6) The facility is operating under an enforcement order issued to the operator and which meets all of the following requirements:

(A) The order was issued pursuant to 14 CCR §18304.1(a)(3) and includes a compliance schedule for bringing the facility into compliance with §§20919, 20919.5, and 20921.

(B) A final order has been issued pursuant to 14 CCR §18304.2.

(C) A copy of the proposed order and any amended order proposed by the EA was provided to the CIWMB for review and comment prior to its issuance.

(7) The EA has reviewed and approved and the CIWMB has reviewed all investigation reports or results, proposed workplans, or proposed gas mitigation measures submitted pursuant to the enforcement order issued pursuant to ¶(d)(6).

(A) If possible, all parties shall mutually agree to time frames for EA and CIWMB review of the submitted documents so that all reviews can be completed expeditiously. In the event agreement cannot be reached, the EA and CIWMB shall determine the schedules for their reviews.

(8) The operator is in compliance with the approved gas mitigation measures or workplan approved by the EA and specified in the enforcement order.

(A) If the operator fails to comply with the enforcement order, the EA shall, as necessary and appropriate:

(i) Take additional enforcement action, which may include the imposition of administrative civil penalties in an amount from one hundred dollars ($100) up to five thousand dollars ($5,000) for each day on which a violation occurs pursuant to §45011 of the Public Resources Code, or

(ii) Take direct cleanup action pursuant to an appropriate enforcement order.

(B) If the EA fails to take appropriate enforcement action as specified in 14 CCR §18084(d), CIWMB may take enforcement action pursuant to 14 CCR §18350.

(C) If the CIWMB takes enforcement action in lieu of the EA, any required public hearing shall be conducted by the CIWMB Executive Director or his/her designee.

(9) For facilities that propose a facility property boundary expansion, a footprint expansion, or any other increase in facility capacity as part of the permit application, investigations or analyses respecting landfill decomposition gases at the facility must have been conducted by the operator prior to the submittal of the permit application to the EA and the results of such investigations and analyses shall be submitted to the EA, CIWMB, RWQCB, APCD/AQMD, and any other appropriate agency prior to or concurrent with the permit application.

(A) The investigations or analyses shall evaluate:

(i) Whether the proposed expansion may increase the magnitude or complexity of the noncompliance with §§20919, 20919.5, and 20921.

(ii) Whether the proposed expansion may cause potential impacts to water quality and air quality or other impacts outside the jurisdiction of the EA.

(B) If the results of the investigations and analyses conducted pursuant to ¶(d)(9)(A)(i) warrant, the operator shall include an analysis and additional feasible control measures as part of the gas mitigation measures or workplan specified in the order required by ¶(d)(6).

(e) If an applicant or enforcement agency requests that revisions, additions or amendments be considered, these will be considered in accordance with the conditions specified in §21580 and ¶(f) of §21650 respectively.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code. Reference: Sections 43103, 44007–44010 and 44014, Public Resources Code.

HISTORY

1. New article 3.1 (sections 21685–21686) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Change without regulatory effect redesignating and amending former subsection (b)(7)(C) to subsection (b)(8), and redesignating former subsection (b)(8) to subsection (b)(9) filed 3–8–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 11).
3. Amendment of subsections (b)(1) and (b)(5) and new subsections (b)(5)(i)–(iii) filed 2–25–2003; operative 2–25–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 9).
4. New subsections (d)–(d)(9)(B) and subsection relettering filed 11–17–2005; operative 12–17–2005 (Register 2005, No. 46).
5. Amendment of section heading and section filed 3–14–2007; operative 4–13–2007 (Register 2007, No. 11).

§ 21686. CIWMB—Change in Owner/Operator and/or Address. (new)

Within 20 days of receipt of the notification pursuant to §21630, the CIWMB shall provide a written determination of the adequacy of the financial assurances and operating liability.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code. Reference: Sections 43103, 44007–44010, and 44014, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

[The next page is 661.]

Article 3.2. CIWMB—Other Requirements

§ 21690. CIWMB—Report of Woodwaste Disposal Site Information. [Reserved]

Article 4. SWRCB—Development of Waste Discharge Requirements (WDRs)

§ 21710. SWRCB—Report of Waste Discharge (ROWD) and Other Reporting Requirements. [C15: §2590]

(a) General—Any person discharging or proposing to discharge solid waste to land where water quality could be affected as a result of such discharge shall submit to the RWQCB a report of waste discharge (ROWD), unless the report is waived by the RWQCB; nevertheless, the RWQCB shall not waive the report for any MSW landfill subject to regulation under SWRCB Resolution No. 93–62. After July 18, 1997, any person proposing to discharge solid waste at a waste management unit (Unit) that is subject to regulation by both the CIWMB/EA and the RWQCB shall make all ROWD submittals (including updates to a previously submitted ROWD) in the form of a Joint Technical Document (JTD), as provided in §21585. After July 18, 1997, this reporting requirement also applies to the expansion of the RWQCB–Permitted Area of a new or existing Unit and to the development of new Units at an existing facility. Dischargers shall submit any applicable information required by this article to the RWQCB upon request. Dischargers shall provide information on waste characteristics, geologic and climatologic characteristics of the Unit and the surrounding region, installed features, operation plans for waste containment, precipitation and drainage controls, and closure and post–closure maintenance plans as set forth in §§21740, 21750, 21760, and 21769. For non–MSW Class III landfills, the RWQCB can waive the submittal of information it deems unnecessary to rendering a decision on the issuance of appropriate WDRs.

(1) [Reserved.]

(2) Final Closure/Post–Closure Plan—For Class II and III Units, a Final Closure and Post–Closure Maintenance Plan shall be submitted with the closure notice required by ¶(c)(5), unless, for landfill Units, the CIWMB requires submittal at an earlier date.

(3) Waiving Post–Closure Maintenance—The RWQCB can waive the post–closure portion of the report if the discharger successfully completes clean–closure pursuant to §21090(f) [for landfills], §21400(b)(1) [for surface impoundments], or §21410(a)(1) [for waste piles], or if the RWQCB finds that post–closure maintenance is not necessary to prevent adverse impacts on waters of the state; provided that the RWQCB shall not waive post–closure maintenance for an MSW landfill subject to SWRCB Resolution No. 93–62 unless the Unit has been clean– closed. [*Note: see also §21900 for corresponding CIWMB requirements.*]

(4) Notification of Change—The discharger shall notify the RWQCB of changes in information submitted under the applicable SWRCB–promulgated requirements of this division, including any material change in: the types, quantities, or concentrations of wastes discharged; site operations and features; or proposed closure procedures, including changes in cost estimates. The discharger shall notify the RWQCB a reasonable time before the changes are made or become effective. No changes shall be made without RWQCB approval following authorization for closure pursuant to the site closure notice required by ¶(c)(5).

(5) Construction Quality Assurance Plan (CQA Plan).

(A) Submittal (new Units)—For Units constructed (or reconstructed) after July 18, 1997, the discharger shall submit a preliminary CQA Plan as an integral or separable part of the initial ROWD/JTD under ¶(a). The discharger shall make such changes to the CQA Plan as may be necessary to maintain continued compliance with §§20323 and 20324 (*e.g., in the event of design changes, or as directed by the RWQCB*). For a revised CQA Plan, the discharger shall submit the revised portions of the plan at least two weeks before beginning construction of any liner system or cover system.

(B) Submittal (existing Units)—For existing Units that do not have a CQA Plan meeting all the foregoing requirements, the discharger shall submit such a plan, or submit suitable modifications to an existing plan, prior to constructing, installing, or modifying any engineered feature at the Unit. In the absence of such construction, installation, or modification, the discharger shall make this submittal as part of whichever of the following documents is submitted first:

1. the final closure and post–closure plan under ¶(a)(2); or

2. in the event that a release is discovered, as part of the proposed corrective action program under §20425(d).

(b) ROWD/WDR Out–Of–Date or Nonexistent—Dischargers who own or operate a new or existing Unit which has not been classified under previous versions of these regulations, or for which the discharger has not submitted a report of waste discharge (ROWD) before July 18, 1997, shall notify the RWQCB of the existence of their Unit prior to July 18, 1998 and shall submit a ROWD which complies with ¶(a) before July 18, 1999, together with the appropriate filing fee. Dischargers who own or operate an existing Unit for which WDRs were last revised before November 27, 1984, shall submit a ROWD which complies with ¶(a) to the RWQCB, together with the appropriate filing fee, on request.

(c) Notification.

(1) Change of Ownership—The discharger shall notify the RWQCB in writing of any proposed change of ownership or responsibility for construction, operation, closure, or post–closure maintenance of a Unit. This notification shall be given prior to the effective date of the change and shall include a statement by the new discharger that construction, operation, closure, and post–closure maintenance will be in compliance with any existing WDRs and any revisions thereof. The RWQCB shall amend the existing WDRs to name the new discharger.

(2) Response to Failure—The discharger shall promptly notify the RWQCB of any slope failure, occurring at the Unit. The discharger shall promptly correct any failure which threatens the integrity of containment features or the Unit, after approval of the method, in accordance with a schedule established by the RWQCB.

(3) Leachate Production Change Notification—The discharger shall notify the RWQCB within seven days if fluid is detected in a previously dry leachate collection and removal system or unsaturated zone monitoring system, or if a progressive increase is detected in the volume of fluid in a leachate collection and removal system.

(4) Monitoring Reports and Notifications—The discharger shall comply with the notification (and other submittal) requirements in Article 1, Subchapter 3, Chapter 3 of this division (§20380 et seq.).

(5) Notification of Closure.

(A) Landfills—For landfills subject to the CIWMB–promulgated regulations of this division, the discharger shall notify the RWQCB that the Unit is to be closed, and shall provide such notice either at the same time as for the CIWMB, under §21110, or 180 days prior to beginning any final closure activities (for the entire Unit or portion thereof), whichever is sooner.

(B) Other Units—For Units not subject to the CIWMB–promulgated regulations of this division, the discharger shall notify the RWQCB of Units to be closed at least 180 days prior to beginning any final closure activities, unless the RWQCB specifies a shorter interval in the WDRs for such a Unit.

(C) Affirmation—The notice provided pursuant to ¶(c)(5)(A or B) shall include a statement that all closure activities will conform to the most recently approved closure plan and that the plan provides for site closure in compliance with all applicable federal and state regulations.

(6) Closure Completion Notice—The owner or operator of a Unit shall notify the RWQCB within 30 days after the completion of all closure activities for a Unit [or portion thereof, in the case of a landfill undergoing incremental closure under §21090(b)(1)(D)]. The discharger shall certify under penalty of perjury that all closure activities were performed in

accordance with the most recently approved final closure plan and in accordance with all applicable regulations. The discharger shall certify that closed Units shall be maintained in accordance with an approved post-closure maintenance plan unless post-closure maintenance has been waived pursuant to ¶(a)(3).

(d) Appropriate Professional—Any report submitted under this section or any amendment or revision thereto which proposes a design or design change (or which notes occurrences) that might affect a Unit's containment features or monitoring systems shall be approved by a registered civil engineer or a certified engineering geologist.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13260 and 13267, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New article 4 (sections 21710-21760) and section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 21720. SWRCB—Waste Discharge Requirements (WDRs). (C15: §2591)

(a) WDR Scope & Purpose—The RWQCB shall adopt waste discharge requirements (WDRs) that implement the applicable provisions of this title.

(b) WDR Revision—The RWQCB shall revise WDRs as necessary to implement the provisions of this title.

(c) Reclassification—Unit classifications and WDRs for existing Units shall be fully reviewed in accordance with schedules established by the RWQCB. The WDRs shall be revised to incorporate reclassification and retrofitting requirements as provided in §20080(e) and §20310, and to comply with applicable monitoring and response programs required under Article 1, Subchapter 3, Chapter 3 of this division (§20380 et seq.). The RWQCB shall specify in WDRs the schedule for retrofitting of existing Units. All retrofitting shall be complete within five years from the issuance of the revised WDRs.

(d) Local Agencies—WDRs for new Units or for expansion of Units beyond the RWQCB-Permitted Area on July 18, 1997 shall not be effective until the RWQCB is notified that all local agencies with jurisdiction to regulate land use, solid waste disposal, air pollution, and to protect public health have approved use of the site for discharges of waste to land.

(e) Consolidation of Requirements at Multi-Unit Facilities—At the discretion of the RWQCB, WDRs for all Units in a single facility can be combined into a single set of WDRs applicable to the facility as a whole and to each respective Unit within the facility, but only if the requirements that apply to each respective Unit are clearly identified. Likewise, the RWQCB can consolidate the requirements relating to precipitation and drainage control systems for two or more adjacent Units, provided that such consolidated requirements reflect standards for the highest classification of Unit involved. Each solid waste Unit at a facility shall have its own respective monitoring program(s) under Article 1, Subchapter 3, Chapter 3 of this division (§20380 et seq.); nevertheless, Units can share Monitoring Points, Background Monitoring Points, sampling efforts, and reporting periods to the degree that the RWQCB concurs that such sharing does not interfere with achieving the goal of the monitoring program(s) at each respective Unit.

(f) Records—The discharger shall be required to maintain legible records of the volume and type of each waste discharged at each Unit and the manner and (for Units other than surface impoundments) location of discharge. Such records shall be on forms approved by the SWRCB or RWQCB and shall be maintained at the waste management facility until the beginning of the post-closure maintenance period. These records shall be available for review by representatives of the SWRCB and RWQCB at any time during normal business hours. At the beginning of the post-closure maintenance period, copies of these records shall be sent to the RWQCB.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13263, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 21730. SWRCB—Public Participation. (C15: §2592)

(a) Notification Of Interested Parties—To ensure adequate public participation in any RWQCB proceeding relating to land disposal of wastes, the following persons and entities shall receive individual notice of any public hearing or board meeting either involving the classification of Units or involving the issuance or revision of WDRs for classified Units subject to this division:

(1) the discharger and responsible public agencies;

(2) news media serving the county as well as communities within five miles of the Unit;

(3) citizens groups representing local residents;

(4) environmental organizations in affected counties;

(5) interested industrial organizations; and

(6) for an MSW landfill at which a release has migrated beyond the facility boundary, any persons requiring notification pursuant to SWRCB Resolution No. 93-62 [see 40CFR258.55(g)(1)(iii)].

(b) Notice Requirements—Notice of hearings or meetings related to Units, or to discharges subject to this division, shall be given not less than 45 days before the meeting at which such actions will be taken, and copies of the agenda package shall be available not less than 30 days before the meeting. Nevertheless:

(1) enforcement actions involving releases of hazardous wastes can be taken at meetings which comply only with the shorter (10-day) notice requirements of the California State Body Open Meetings Act; and

(2) emergency actions [as described in §647.2(d) Government Code)] taken by the RWQCB are exempt from public participation and notice requirements.

(c) Public Input Regarding a Proposed Corrective Action Program—Regarding the adoption of corrective action measures for an MSW landfill, including any hearing preparatory to such adoption, the RWQCB shall meet the federal requirements incorporated by reference into SWRCB Resolution No. 93-62 [i.e., see §258.56(c & d) and §258.57 of 40CFR258].

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13260 and 13302, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 21740. SWRCB—Waste Characteristics. (C15: §2594)

(a) ROWD To Include—Dischargers shall provide in the report of waste discharge ("ROWD," including any such report that is integrated into a Joint Technical Document, pursuant to §21750) the following information about the characteristics of wastes to be discharged at each waste management unit (Unit) addressed by the ROWD.

(1) Constituents & Reference Numbers—A list of the types, quantities, and concentrations of wastes proposed to be discharged at each Unit. Wastes and known waste constituents shall be specifically identified according to the most descriptive nomenclature. A listing of all anticipated hazardous constituents that could be discharged to the Unit (*e.g., household hazardous waste discharged to an MSW landfill might include constituents listed in Appendix II to 40CFR258*); where available, this listing shall include constituent (or waste) reference numbers from listings established by DTSC or USEPA (e.g., Appendix IX to §66264 of Title 22 of this code).

(2) TSD Methods—A description of proposed treatment, storage, and disposal methods.

(3) Expected Decomposition Products/Rate—An analysis of projected waste decomposition processes for each Unit indicating intermediate and final decomposition products and the period during which decomposition will continue following discharge.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13301 and 13304, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 21750. SWRCB—Waste Management Unit (Unit) Characteristics and Attributes to Be Described in the ROWD. [C15: §2595 & §2547(a) // T14: §17777, §18260, §18263, & §18264]

(a) Identify Potential Impairment—Dischargers shall provide in the report of waste discharge ("ROWD", including any such report integrated into a Joint Technical Document (JTD), pursuant to §21585) an analysis describing how the ground and surface water could affect the Unit and how the Unit, including how any waste, if it escapes from the Unit, could affect the beneficial uses of ground water bodies (including, but not limited to, any aquifers underlying the facility) and surface water bodies. The RWQCB shall use this information to determine the suitability of the Unit with respect to ground water protection and avoidance of geologic hazards and to demonstrate that the Unit meets the classification criteria set forth in Article 3, Subchapter 2, Chapter 3, Subdivision 1 of this division (§20240 et seq.).

(b) Support Proposed Classification—Dischargers shall provide the data required by this section regarding the physical characteristics of the Unit and the surrounding region in order to demonstrate suitability for the appropriate Unit classification. The ROWD shall present this information in understandable written, tabular, and graphic format, as appropriate, and this information shall be at a level of detail appropriate to support the RWQCB's approving the Unit's proposed classification. Maps, plans, diagrams, and other graphics shall be prepared to appropriate scale and each shall include a legend identifying the information presented. All sources of data shall be identified.

(c) Restate, Where Appropriate—If a report submitted by a discharger refers to another source, the relevant information from that source shall be restated in the report. If the source is not generally available, the relevant portion(s) of the source shall be included verbatim in the report as an appendix.

(d) Topography.

(1) Topographic Map—A map of the Unit and its surrounding region within one mile of the perimeter of the Unit, showing elevation contours, natural ground slopes, drainage patterns, and other topographic features.

(2) Floodplain—Identification of whether the facility is located within a 100-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant Federal Emergency Management Agency (FEMA) flood map, if used, or the calculations and maps used where a FEMA map is not available. The submittal shall also identify the 100-year floodplain and any other special flooding factors (e.g. wave action) which must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood. Dischargers having facilities located in the 100-year floodplain shall provide the following information:

(A) engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as consequence of a 100-year flood;

(B) structural or other engineering studies showing the design of Units and flood protection devices (*e.g., floodwalls, dikes*) at the facility and how these will prevent washout; and

(C) landfills accepting municipal solid waste shall demonstrate that:

1. for Class II landfills, the Unit meets the flooding requirements of §20250(c); or

2. for Class III landfills, the Unit meets the requirements of §20260(c).

(e) Climatology—Dischargers shall calculate required climatologic values for Units from measurements made at a nearby climatologically similar station. In addition to the required calculations for each Unit, dischargers shall provide the source data from which such values were calculated, together with the name, location, and period of record of the measuring station.

(1) Isohyetal Map—A map showing isohyetal contours for the proposed Unit and its surrounding region within ten miles of the facility perimeter, based on data provided by the National Weather Service or other recognized federal, state, local, or private agencies.

(2) Precipitation—Estimated maximum and minimum annual precipitation at the proposed Unit.

(3) Design Storm—Maximum expected 24-hour precipitation for the Unit's design storm [i.e., for storm conditions specified as design criteria for the particular class of Unit as prescribed in Table 4.1 of Article 4, Subchapter 2, Chapter 3, Subdivision 1 of this division].

(4) Evapotranspiration—Estimated mean, minimum, and maximum evaporation, with the months of occurrence of maximum and minimum evaporation, for the Unit.

(5) Runoff Volume/Pattern—Projected volume and pattern of runoff for the Unit including peak stream discharges associated with the storm conditions specified as design criteria for the particular class of Unit, as prescribed in Table 4.1 of Article 4, Subchapter 2, Chapter 3, Subdivision 1 of this division.

(6) Wind Rose—An estimated wind rose for the Unit showing wind direction, velocity, and percentage of time for the indicated direction.

(f) Geology.

(1) Map and Cross-Sections—A comprehensive geologic map and geologic cross-sections of the Unit showing lithology and structural features. Cross-sections shall be indexed to the geologic map and shall be located to best portray geologic features relevant to discharge operations.

(2) Materials—A description of natural geologic materials in and underlying the location of both the Unit and its surroundings, including identification of each rock's type, relative age, distribution and dimension features, physical characteristics, special physical or chemical features (*e.g., alteration other than weathering*), distribution, the extent of any weathered zones, susceptibility to natural surface/near-surface processes, and all other pertinent lithologic data, all in accordance with current industry-wide practice [*e.g., California Division of Mines and Geology's (CDMG's) Note 44 Guidelines for Preparing Engineering Geologic Reports (April, 1986)*].

(3) Geologic Structure—A description of the natural geologic structure of materials underlying the location of the Unit and its surroundings, including: the attitude of bedding (if any); thickness of beds (if any); the location, attitude, and condition (tight, open, clay- or gypsum-filled, etc.) of any fractures; the nature, type (anticlinal, synclinal, etc.) and orientation of any folds; the location (surface and subsurface), age, type of surface displacement, attitude, and nature [*e.g., aperture, amount of brecciation, degree of alteration and type of alteration products (tight, gouge-filled, etc.)*] of any faults; and all other pertinent, related structural data, (all of the foregoing) in accordance with current industry-wide practices [*e.g., CDMG's Note 42 "Guidelines to Geologic/Seismic Reports" (May, 1986), and CDMG Note 49 "Guidelines for Evaluating the Hazard of Surface Fault Rupture" (May, 1986)*].

(4) Engineering and Chemical Properties—The results of a testing and estimation program, carried out by a registered civil engineer or certified engineering geologist, as needed to formulate and support detailed site design criteria, including:

(A) determination of engineering and chemical properties of geologic materials underlying and surrounding the Unit, and of the Unit's containment structure components (i.e., liner, LCRS, and final cover components);

(B) determination, or estimation, of the engineering and chemical properties of the waste and other layers placed, or to be placed, within the Unit.

(5) Stability Analysis—A stability analysis, including a determination of the expected peak ground acceleration at the Unit associated with the maximum credible earthquake (for Class II waste management units) or the maximum probable earthquake (for Class III landfills). This stability analysis shall be included as part of the ROWD (or JTD) for the proposed Unit, and an updated stability analysis (if the original analysis no longer reflects the conditions at the Unit) shall be included as part of the final closure and post-closure maintenance plan. The methodology used in the stability analysis shall consider regional and local seismic conditions and faulting. Data and procedures shall be consistent with current practice

and shall be based on an identified procedure or publication. The stability analyses shall include modifications to allow for site–specific surface and subsurface conditions. The peak ground acceleration so determined shall be the stability and factors of safety for all embankments, cut slopes, and associated landfills during the design life of the unit. For landfills and for waste piles and surface impoundments closed as landfills, final cover slopes shall be designed in compliance with the slope requirements of §21090.

(A) The stability analysis shall ensure the integrity of the Unit, including its foundation, final slopes, and containment systems under both static and dynamic conditions throughout the Unit's life, closure period, and post–closure maintenance period. The stability analysis shall include:

1. the method used to calculate the factors of safety (e.g., Bishop's modified method of slices, Fellinius circle method, etc.);

2. the name of any computer program used to determine the factors of safety; and

3. a description of the various assumptions used in the stability analyses (height of fill, slope–and–bench configuration, etc.).

(B) The stability analysis shall address all portions of the Unit and its immediate surroundings that are located in areas subject to liquefaction or unstable areas with poor foundation conditions, as identified either in the ROWD or in the Seismic Safety Element of the County General Plan, and shall address all portions of the Unit that incorporate geomembranes as part of the Unit foundation or containment system (including the final cover).

(C) The stability analysis shall be prepared by a registered civil engineer or certified engineering geologist. Except as otherwise provided in ¶(f)(5)(D), the report must indicate a factor of safety for the critical slope of at least 1.5 under dynamic conditions. Regardless of the analysis method used, the stability analysis report shall include at least the following elements:

1. report preparation shall be in accordance with CDMG Note Number 42, "Guidelines for Geologic/Seismic Reports," May 1986, and CDMG Note Number 44, "Guidelines for Preparing Engineering Geologic Reports," April 1986, [*both available from the California Division of Mines and Geology (CDMG), 801 K Street, MS14–34, Sacramento, CA 95814–3532, phone 916–445–5716*] which are both incorporated by reference, and shall include the following seismicity elements:

a. a review of earthquakes during historic times;

b. location of active major faults; and

c. surface investigation of the site and surrounding area;

2. the location of the critical slope and other slopes analyzed to determine the critical slope shall be shown in map view;

3. calculations used to determine the critical slope;

4. a profile of the critical slope geometry showing the various layers including the proposed fill surface, final cover, mitigation berms, lifts or cells of waste, fluid levels, or any feature that may serve to reduce the stability of the slope or may represent a potential failure surface; and the proposed ground surface, soil or rock layers and structural features;

5. the engineering properties of the refuse and other layers making up the site, shall be analyzed when determining the critical slope. These properties shall include a site–specific assessment of the strength parameters, the unit weight and, if using ¶(f)(5)(D), the shear wave velocity of each of these layers;

6. an assessment of the engineering properties of the underlying foundation materials under both static and dynamic conditions based on field and laboratory tests as determined necessary by a registered civil engineer or certified engineering geologist;

7. the maximum expected horizontal acceleration in rock at the site determined for the design earthquake for the Unit under §20370 [i.e., for Class II Units, the maximum credible earthquake (MCE), and for Class III Units, at least the maximum probable earthquake (MPE)], as supported by data and analysis. For Class III landfills, the maximum expected acceleration in rock from the MCE can be used instead of the MPE;

8. seismic shaking parameters other than acceleration shall also be included in any assessment of dynamic slope stability. These parameters shall include at least earthquake magnitude and duration;

9. documentation of any peer–reviewed reduction factor for acceleration applied to attenuate the acceleration through the soil column or fill materials; and

10. documentation, as part of the dynamic stability determination, of any peer–reviewed amplification factor used for acceleration in loose saturated soils, if the Unit is located in an area subject to liquefaction, poor foundation conditions, or seismic amplification.

(D) In lieu of achieving a factor of safety of 1.5 under dynamic conditions, pursuant to ¶(f)(5)(C), the discharger can utilize a more rigorous analytical method that provides a quantified estimate of the magnitude of movement. In this case, the report shall demonstrate that this amount of movement can be accommodated without jeopardizing the integrity of the Unit's foundation or the structures which control leachate, surface drainage, erosion, or gas.

(6) [Reserved.]

(7) Fault Identification & Proximity—Dischargers who own or operate new Class II Units [including expansions (of new or existing Units) built after November 27, 1984] shall identify any known Holocene fault within 200 feet of the facility (including any portions of such a fault underlying the Unit) in accordance with a procedure approved by the RWQCB. Dischargers who own or operate new Class III landfills [including expansions (of new or existing) landfills] shall identify any known Holocene fault underlying the landfill according to a procedure approved by the RWQCB. After July 18, 1997, dischargers required to submit a slope stability report, under ¶(f)(5), shall provide a review of historical seismicity within a 100 km (62 mile) radius of the facility, including the name of the fault, type of faulting, activity on the fault, design event for the fault (for Class II Units, the fault's MCE, for Class III Units, the fault's MPE), distance from the facility, the expected ground motions (horizontal and vertical) at the facility resulting from the fault's design event, the expected duration of strong motion at the site resulting from the fault's design event, and an estimation of the cumulative duration of strong motion from aftershocks.

(g) Hydrogeology.

(1) General—An evaluation of the water–bearing characteristics of the natural geologic materials identified under ¶(f)(2)including determination of hydraulic conductivity, delineation of all ground water zones and basic data used to determine the above.

(2) Hydraulic Conductivity—An evaluation of the in–place hydraulic conductivity of soils immediately underlying the Unit. This evaluation shall include:

(A) hydraulic conductivity data, in tabular form, for selected locations within the perimeter of the Unit;

(B) a map of the unit showing test locations where these hydraulic conductivity data were obtained; and

(C) an evaluation of the test procedures and rationale used to obtain these hydraulic conductivity data.

(3) Flow Direction(s)—An evaluation of the perennial direction(s) of ground water movement within the uppermost ground water zone(s) within one mile of the waste management facility's perimeter.

(4) Capillary Rise—Estimates of the height to which water rises due to capillary forces above the uppermost ground water zone(s) beneath and within one mile of the waste management facility perimeter. These estimates shall include an evaluation of the methods and rationale used in their development.

(5) Springs—A map showing the location of all springs within the waste management facility and within one mile of its perimeter. The map shall be accompanied by tabular data indicating the flow and the mineral quality of the water from each spring.

(6) Water Quality—An evaluation, supported by water quality analyses, of the quality of water known to exist under or within one mile of the waste management facility's perimeter, including all data necessary to

establish the water quality protection standard (Water Standard) for the Unit, under §20390.

(7) Background—A tabulation of background water quality for all applicable Monitoring Parameters and indicator parameters identified for each applicable monitoring program under §§20420–20435 and for all Constituent of Concern (COCs) identified under §20395.

(A) Background water quality for an indicator parameter, Monitoring Parameter or COC in ground water shall be based on data from quarterly sampling of wells upgradient from the Unit for one year. These analyses shall:

1. account for measurement errors in sampling and analysis; and

2. account for seasonal fluctuations in background water quality, if such fluctuations are expected to affect the concentration of the waste constituent.

(B) In case an evaluation monitoring program is initiated prior to fulfilling the requirements of ¶(g)(7)(A), the discharger shall, where feasible, establish background water quality based on a combination of all background data then available—including (1) all background data so far taken to satisfy ¶(g)(7)(A), (2) all background data obtained during accelerated sampling efforts under §20425(b), and (3) all appropriate water quality data from before WDRs were issued—in lieu of the one-year monitoring program under ¶(g)(7)(A).

(C) Background water quality of ground water shall be based on sampling of wells that are not upgradient from the Unit only where:

1. hydrogeologic conditions do not allow the determination of the upgradient direction; or

2. sampling at other wells will provide a representative indication of background water quality.

(D) In developing the data base used to determine a background value for each indicator parameter or waste constituent in ground water, the discharger shall take a minimum of one sample from each well used to determine background. A minimum of four samples shall be taken from the entire system used to determine background water quality, each time the system is sampled. In a case where there is only one background well, the four measurements per quarter shall be obtained by taking four independent samples, pursuant to §20415(e)(12)(B), and conducting separate analyses for each such sample.

(h) Land and Water Use.

(1) Well Map—A map showing the locations of all water wells, oil wells, and geothermal wells within the facility boundary and showing the locations of all such wells within one mile outside of the facility boundary.

(2) Well Owner—Name and address of the owner of each well indicated in ¶(h)(1).

(3) Well Information—Well information, where available, for each water well indicated in ¶(h)(1) including, but not limited to:

(A) total depth of well;

(B) diameter of casing at ground surface and at total depth;

(C) type of well construction (cable-tool, rotary, etc.);

(D) depth and type of perforations;

(E) name and address of well driller;

(F) year of well construction;

(G) use of well (agricultural, domestic, stock watering, etc.);

(H) depth and type of seals;

(I) lithologic, geophysical, and other types of well logs, if available; and

(J) water levels, pump tests, water quality, and other well data, if available.

(4) Land Use—Current land use within one mile of the perimeter of the Unit, including:

(A) types of land use (*e.g., residential, commercial, industrial, agricultural, recreational, etc.*);

(B) types of crops;

(C) types of livestock; and

(D) number and location of dwelling units.

(5) G.W. Use—Current and estimated future use of ground water within one mile of the facility perimeter.

(i) Preliminary Closure Plan—For any proposed Unit (including a proposed lateral expansion of a Unit's RWQCB-Permitted Area) and for any Unit not yet required to undergo final closure, the ROWD shall contain a preliminary closure and post-closure maintenance plan, under §21769, containing a generalized cost estimate for closure costs and for annualized post-closure costs, supported by sufficient detail to validate the plausibility of the estimate. For any Unit (or portion thereof, in the case of a landfill undergoing complete final closure of a portion of the Unit) that is closing (or that is required to close), the ROWD shall be amended to contain a final closure plan, under §21769, containing sufficient detail for the RWQCB to validate that the closed Unit will meet all applicable SWRCB-promulgated closure-related requirements of this title, and containing an updated, itemized closure cost estimate.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13267, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 21760. SWRCB—Design Report and Operations Plan. (C15: §2596)

(a) Design Report.

(1) Preliminary and As-Built Plans—As part of the report of waste discharge ("ROWD", including any such report integrated into a Joint Technical Document, pursuant to §21585), dischargers who own or operate classified waste management units (Units) shall submit, for each such Unit, detailed preliminary and (later, after completion) as-built plans, specifications, and descriptions for all liners (under §20330) and other containment structures (*e.g., final cover, under §21090*), leachate collection and removal system components (under §20340), leak detection system components [under §20415(b–d)], precipitation and drainage control facilities (under §20365), and interim covers installed or to be installed or used (under §20705). In addition, the ROWD shall contain a description of, and location data for, ancillary facilities including roads, waste handling areas, buildings, and equipment cleaning facilities, only insofar as the location and operation of these ancillary facilities could have an effect upon water quality.

(2) [Reserved.]

(3) Monitoring System Plans and Rationale—Dischargers shall submit detailed plans and equipment specifications for compliance with the ground water and unsaturated zone monitoring requirements of Article 1, Subchapter 3, Chapter 3, Subdivision 1 of this division (§20380 et seq.). Dischargers shall provide a technical report which includes rationale for the spatial distribution of ground water and unsaturated zone monitoring facilities, [*e.g., the location and design of Monitoring Points and Background Monitoring Points for each monitored medium under §20415(b–e)*], and for the selection of other monitoring equipment. This report shall be accompanied by the following information, which shall be updated throughout the Unit's active life, closure period, and post-closure maintenance period as needed to reflect the as-built system:

(A) Map—a map showing the locations of proposed monitoring facility components; and

(B) Plans & Specifications—drawings and data showing construction details of proposed monitoring facilities. These data shall include:

1. casing and test hole diameter;

2. casing materials (PVC, stainless steel, etc.);

3. depth of each test hole;

4. the means by which the size and position of perforations shall be determined, or verified, in the field;

5. method of joining sections of casing;

6. nature of filter material;

7. depth and composition of seals;

8. method and length of time of development; and

(C) Unsaturated Zone Monitoring—specifications, drawings, and data for location and installation of unsaturated zone monitoring equipment.

(4) Inspection Procedures—Dischargers shall submit proposed construction and inspection procedures for the Unit [including, after July 18, 1997, a CQA Plan under §21710(a)(5)] to the RWQCB for approval.

(b) Operation Plans—Dischargers shall submit operation plans describing those Unit operations which could affect water quality, including but not limited to:

(1) a description of proposed treatment, storage, and disposal methods;

(2) contingency plans for the failure or breakdown of waste handling facilities or containment systems, including notice of any such failure, or any detection of waste or leachate in monitoring facilities, to the RWQCB, local governments, and water users downgradient of Units; and

(3) a description of inspection and maintenance programs which will be undertaken regularly during disposal operations and the post-closure maintenance period.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 13360, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

Subchapter 4. Development of Closure/Postclosure Maintenance Plans

§ 21769. SWRCB—Closure and Post-Closure Maintenance Plan Requirements. [C15: §2597 // T14: §17776, §17778(g), §18260, §18261.3(a)(2 & 7), §18262, §18263, §18264]

[*Note: see also §21790 et seq.*]

(a) Scope, Applicability, & Purpose—The SWRCB-promulgated sections in this subchapter set forth the requirements for the discharger's development and implementation of the preliminary and final closure and post-closure maintenance plans and for the RWQCB's review and approval of such plans. The SWRCB-promulgated sections of this Subchapter apply to all dischargers who own or operate a Class II or Class III Unit that is subject to the SWRCB-promulgated requirements of this subdivision. The purpose of such plans is to ensure that:

(1) Performance Standards—the discharger will close the Unit, and will maintain the Unit during the post-closure maintenance period, in a manner that achieves applicable performance standards under §20950(a)(2); and

(2) Funding—the discharger provides funds, through an acceptable financial mechanism, to achieve the goals of ☒(a)(1).

(b) Preliminary Closure/Post-Closure Maintenance Plan.

(1) Purpose—The preliminary closure and post-closure maintenance plan for a Unit shall provide a reasonable estimate of the maximum expected cost that would be incurred at any time during the Unit's projected life for a third party both to close the Unit and to carry out the first thirty years of post-closure maintenance, pursuant to all applicable SWRCB-promulgated requirements of this subdivision, including but not limited to the closure and post-closure requirements under Subchapter 5 of Chapter 3 (§20950 et seq.).

(2) Contents—For Units not jointly regulated by the RWQCB and the CIWMB/EA, this information shall be included as an integrated or separable [*e.g., separately bound*] part of the ROWD under §21710. For Units jointly regulated by both the RWQCB and the CIWMB/EA, this information shall be included as an integral or separable part of the JTD under §21585. At a minimum, the plan shall include:

(A) Cost Analysis—a lump sum estimate of the cost of carrying out all actions necessary to close the Unit, to prepare detailed design specifications, to develop the final closure and post- closure maintenance plan, and to carry out the first thirty years of post-closure maintenance, pursuant to all applicable SWRCB-promulgated requirements of Subchapter 5 of Chapter 3 (§20950 et seq.); and

(B) Map—a topographic map, drawn at appropriate scale and contour interval, and drawn to an appropriate level of detail, showing:

1. the boundaries of the Unit to be closed, including the proposed final limits of waste placement;

2. the boundaries of the facility; and

3. the boundaries of the waste received, if any, as of the date of the plan submittal;

4. the proposed final contours of the Unit and of its surrounding area; and

5. any changes in surface drainage patterns caused by the proposed final contours of the Unit and of its surrounding area, as compared to the preexisting natural drainage patterns.

(c) Final Closure/Post-Closure Maintenance Plan.

(1) Purpose—The purpose of the final closure and post-closure maintenance plan is:

(A) to provide, for review by the RWQCB, an accurate, detailed list and schedule of all actions necessary to close the Unit and to carry out post-closure maintenance in accordance with all applicable SWRCB-promulgated requirements of this subdivision, including but not limited to the closure and post-closure requirements under Subchapter 5 of Chapter 3 (§20950 et seq.);

(B) to provide, for review by the RWQCB, an accurate estimate of the cost of achieving each action listed in the plan; and

(C) upon the plan's being approved by the RWQCB, to provide an enforceable list and schedule of actions necessary for providing water quality protection at the Unit during the closure and post-closure maintenance periods.

(2) Contents—The final closure and post-closure maintenance plan for the Unit shall include at least the following information. For Units not jointly regulated by the RWQCB and the CIWMB/EA, this information shall be included as an integrated or separable [*e.g., separately bound*] part of the ROWD under §21710. For Units jointly regulated by both the RWQCB and the CIWMB/EA, this information shall be included as an integral or separable part of the JTD under §21585. Minimum plan contents shall include:

(A) Itemized Cost Analysis—a detailed itemized listing of all actions, and their associated costs, necessary to close the Unit and to carry out the first thirty years of post-closure maintenance, pursuant to all applicable SWRCB-promulgated requirements of Subchapter 5 of Chapter 3 (§20950 et seq.);

(B) Closure Schedule—a proposed schedule for final closure including, where appropriate, for incremental closure (complete closure of successive portions of the landfill);

(C) Final Treatment Procedures—a description of any final treatment procedures which the discharger proposes to use for the wastes in each Unit, including methods for total removal and decontamination, if applicable. If the discharger is proposing alternative treatment or disposal procedures for particular Units (or, as appropriate, for the entire facility), the plan shall include a description of the alternatives;

(D) Map—a topographic map, drawn at appropriate scale and contour interval, and drawn to an appropriate level of detail, showing:

1. the boundaries of the Unit(s) to be closed and of the facility;

2. the projected final contours of the Unit and its surrounding area;

3. any changes in surface drainage patterns, as compared to the preexisting natural drainage patterns; and

4. the final limits of waste placement;

(E) Changes To Description Under §21750—a revised and updated submittal of any Unit characteristics of the closed Unit to the extent that they differ from the description provided by the discharger in the existing ROWD (under §21750);

(F) Changes To Description Under §21760—a description of the following aspects of the closed Unit, to the extent that they differ from the description provided by the discharger under the Design Report and Operations Plan submitted pursuant to §21760:

1. the design and the location of all features and systems which will provide waste containment during the post-closure maintenance period;

2. the precipitation, drainage, and erosion control features;

3. the leachate control features and procedures at closed Units, including the design and operation of the LCRS;

4. a discussion, including a map, of ground water and unsaturated zone monitoring programs for the closure and post-closure maintenance periods, addressing the location, construction details, and rationale of all monitoring facilities;

(G) MSW—for MSW landfills only, all additional federal requirements incorporated by reference in SWRCB Resolution No. 93-62 for the protection of water quality [see §§258.60(c-j), and §§258.61(c)(3) and (e) of 40CFR258]; and

(H) Land Use of Closed Unit—the proposed post-closure land use of the disposal site and the surrounding area. If the Unit is to be used for purposes other than nonirrigated open space during the post-closure maintenance period, the discharger shall submit a map showing all proposed structures, landscaping, and related features to be installed and maintained over the final landfill cover. This map shall be at a scale of 1" = 100', unless the RWQCB allows use of another scale that is more appropriate to a given Unit, and shall be accompanied by:

1. Water Balance Analysis—a description and quantification of water entering, leaving, and remaining on-site from all sources to determine potential adverse impacts due to the proposed use, and corresponding mitigative design features and monitoring schemes that will ensure the physical and hydraulic integrity of the final cover in spite of the proposed post-closure land use;

2. Water Penetration Detection Method—detailed design plans and description(s) of the monitoring schemes, including any associated monitoring system(s), that will effectively detect penetration of the final cover by precipitation or applied irrigation waters; and

3. Final Cover Protection—for Units to be closed after July 18, 1997, a description of how the features described in (c)(2)(H) will be installed, operated, and maintained in a manner that does not jeopardize the performance of the final cover [see §20950(a)(2)(A)].

(d) Plan Review and Approval—The RWQCB shall review and approve all preliminary and final closure and post-closure maintenance plans for all portions of the plans which are related to the protection of the waters of the state, including the associated CQA plan, for Class II Units and Class III landfills. For landfill Units jointly regulated by the RWQCB and the CIWMB/EA, the RWQCB's review and approval of preliminary and final closure and post- closure maintenance plans shall follow the same schedule as for the development or revision of WDRs (see PRC §43506). For landfills, the RWQCB shall review final closure and post- closure maintenance plans in coordination with the EA, pursuant to §21585(b & c).

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 13360, Water Code, and Sections 43103, 43506, 43509 and 43601, Public Resources Code.

HISTORY

1. New subchapter 4 (sections 21769-21900) and section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

2. Amendment of subchapter heading filed 2-25-2008; operative 2-25-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 21770. CIWMB—Scope and Applicability. (T14:§18250)

The CIWMB-promulgated sections in this Subchapter set forth requirements that are additional to the water quality protection requirements set forth in SWRCB-promulgated §§20950, 21090, and 21769. Pursuant to §20005, closure plan review should be coordinated as appropriate with other reviewing agencies.

(a) The CIWMB-promulgated sections of this Subchapter set forth the requirements for the development and approval of closure and postclosure maintenance plans and their implementation. The development of such plans is to ensure that a solid waste landfill will be closed in such a manner as to protect the public health, safety and the environment and to ensure that adequate resources will be available to properly accomplish closure and to maintain the landfill during postclosure maintenance period.

(b) The regulations contained in this Subchapter apply to all solid waste landfills required to be permitted pursuant to PRC §44001 et seq. that were operating on or after January 1, 1988.

(c) The plans required by the CIWMB promulgated sections within this Subchapter shall include other pertinent facilities other than surface impoundments, waste piles, and LTUs regulated by the RWQCB located at the site of the solid waste landfill which are related to the disposal activities at the solid waste landfill.

(d) Closure and Postclosure Maintenance Plans shall be written plans to describe the closure of the entire landfill and maintenance requirements after closure in accordance with the requirements of the closure/postclosure standards of Article 2, Subchapter 5, Chapter 3 (§21100 et seq.). The plan shall:

(1) Identify the steps necessary to close a solid waste landfill at the point in its active life when the extent and manner of operation would make closure the most expensive;

(2) Propose a closure that minimizes the extent of postclosure maintenance necessary while ensuring protection of public health and safety and the environment; and

(3) Provide a third party with specific tasks and cost estimates for the closure and postclosure of a solid waste landfill in the event that a third party must assume the responsibility for closure and/or postclosure maintenance.

NOTE: Authority cited: Sections 40502 and 40509, Public Resources Code. Reference: Sections 43020, 43021, 43103, 43501, 43509, 44001 and 44002, Public Resources Code; and Title 40, Code of Federal Regulations, Sections 258.60 and 258.61.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 21780. CIWMB—Submittal of Closure and Postclosure Maintenance Plans.

(a) Each submittal shall be certified by a registered civil engineer or a certified engineering geologist. Each submittal shall include:

(1) The preliminary or final closure and postclosure maintenance plans containing all of the elements specified under §21790 through §21840, as applicable.

(2) Updated or initial cost estimates for closure and postclosure activities to reflect the components and requirements under §§21815, 21820 and 21840. Cost estimates shall be based on the current costs on a unit basis (unit costs) for closure and postclosure maintenance. Cost estimate adjustments based only on inflation factors are not acceptable.

(3) An updated demonstration of financial responsibility in accordance with Subchapter 2 of Chapter 6 (§22205 et seq). This demonstration shall reflect the updated cost estimates for closure and postclosure activities required under ¶(a)(2).

(b) The operator shall submit two copies of each document to the EA, the RWQCB, the CIWMB and the local air district. All drawings shall be submitted at an appropriate scale that clearly shows all pertinent features. The closure and postclosure maintenance plans shall be clearly marked "preliminary" or "final", depending on the status. For partial final closure, those sections submitted pursuant to §21800, shall be clearly marked "partial final."

(c) Plans for complete site closure of a solid waste landfill shall be submitted in accordance with the following schedule:

(1) Preliminary closure and postclosure maintenance plans for existing solid waste landfills shall be submitted at the time of application for each SWFP review or revision. The plans shall be submitted as part of the JTD or as a separate document in the form of a distinct component of a JTD;

(2) Preliminary closure and postclosure maintenance plans for new landfills not operating prior to the effective date of the regulations shall be submitted as part of the JTD or as a separate document in the form of a distinct component of a JTD at or before the time of application for a SWFP. For the purposes of this Subchapter, lateral expansions of landfills are considered new municipal solid waste landfills.

(3) Final closure and postclosure maintenance plans for solid waste landfills shall be submitted two years prior to the anticipated date of closure. Within five years of the anticipated date of closure, the operator may submit the final closure and postclosure maintenance plans in lieu of submitting new or updated preliminary closure and postclosure maintenance plans.

(d) Partial final closure of a solid waste landfill shall be allowed in accordance with the following:

(1) For the complete closure of discrete units, partial final closure and postclosure maintenance plans shall be submitted for each unit 2 years prior to the anticipated date of closure of that discrete unit in accordance with §§21800 and 21830. Closure of such a discrete unit shall not commence until approval of the partial final closure and postclosure maintenance plans for that discrete unit. The specific closure details for each discrete unit shall be compatible with closure of the entire landfill; and

(2) For the implementation of any one or a combination of individual final closure activities, partial final closure and postclosure maintenance plans for the activities shall be approved before implementation of such closure activities.

(e) If immediate closure of a disposal site is necessary to protect public health and safety and the environment, closure plans shall be submitted in accordance with a schedule specified by the EA and concurred with by the RWQCB and CIWMB. If the RWQCB or CIWMB does not object to the schedule within 30 days of written notification by the EA, the schedule is deemed concurred with by that agency. An emergency corrective action plan may be required by the EA, to be submitted for approval by the EA. The emergency corrective action plan may be implemented prior to the submittal of the closure plan.

(f) If, at its own motion, an operator ceases accepting waste at a landfill prior to the anticipated closure date specified in the currently effective Solid Waste Facility Permit, and the operator does not intend to receive additional waste at the landfill, the operator shall submit final closure and postclosure maintenance plans in accordance with a schedule specified by the EA and concurred with by the RWQCB and CIWMB. If the RWQCB or CIWMB does not object to the schedule within 30 days of written notification by the EA, the schedule is deemed concurred with by that agency. In no case shall the schedule be longer than six (6) months from the date the operator ceased accepting waste at the landfill.

(g) The owner or operator of a MSWLF unit shall notify the EA that closure and postclosure maintenance plans have been prepared and placed in the operating record in accordance with 40 CFR 258.60(d) and 258.61(d).

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021, 43022 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of subsections (b)–(e), new subsection (f), subsection relettering and amendment of NOTE filed 2–25–2003; operative 2–25–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 9).
3. Amendment of section heading, subsection (a)(2) and NOTE filed 2–25–2008; operative 2–25–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 21785. CIWMB — Labor Transition Plan.

(a) Each submittal of a final closure plan pursuant to § 21780(c)(3), (e), or (f) shall also include the submittal of a Labor Transition Plan (LTP) that includes all of the following.

(1) Provisions that ensure, subject to any requirements already established pursuant to a collective bargaining agreement, preferential reemployment and transfer rights of displaced employees to comparable available employment with the same employer for a period of no less than one year following the closure of the solid waste facility.

(2) Provisions to provide displaced employees assistance in finding comparable employment with other employers.

(3) Provisions to ensure compliance with all applicable provisions of Chapter 4 (commencing with Section 1400) of Part of 4 of Division 2 of the Labor Code.

(b) Each submittal of a LTP shall also include a certification that the provisions described in (1) to (3), inclusive, of subdivision (a), will be implemented, subject to any requirements already established under a collective bargaining agreement.

(c) The LTP shall be submitted to the EA.

(d) The certification shall be submitted to the CIWMB and the EA.

(e) For the purposes of the section, "comparable employment" means the same or a substantially similar job classification at equal or greater wage and benefit levels in the same geographic region of the state.

(f) The provisions of this section do not apply to submittal of preliminary plans, partial final plans, revised final plans in the review process that have been accepted for filing prior to January 1, 2004, or to revisions of previously approved final plans. Cost estimates or financial assurances for implementation of the LTP are not required.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021, 43022, 43103 and 43501.5, Public Resources Code.

HISTORY

1. Change without regulatory effect adopting new section filed 10–18–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 43).

§ 21790. CIWMB—Preliminary Closure Plan Contents.

(a) The purpose of the preliminary plan is to provide a basis for the operator to establish a preliminary estimate of closure costs certified for accuracy by a registered civil engineer or certified engineering geologist, and enable the CIWMB to assess the reasonableness of the cost estimate for non–water quality aspects of closure.

(b) The plan shall identify the steps necessary to perform either partial final closure, in accordance with §21120, or complete landfill closure and shall include, but is not limited to, the following information:

(1) a closure cost estimate pursuant to §§21815 and 21820;

(2) location maps indicating property boundaries and the existing, permitted, and proposed final limits of waste placement; entry roads; and structures outside the property boundary but within 1000 feet of the property boundary. A location map shall also be included showing the general location of the landfill;

(3) [Reserved];

(4) a location map of the current monitoring and control systems including: leachate control and drainage and erosion control systems as required pursuant to chapter 3 (§20180 et seq.); landfill gas monitoring and control systems as required pursuant to chapter 3 (§20180 et seq.);

(5) a description of proposed postclosure land uses;

(6) an estimate of the maximum extent of the landfill that will ever require closure at any given time during the life of the landfill;

(7) an estimate of the closure date based on volumetric calculations, including supporting documentation. The estimate shall account for the effects of settlement and for volume occupied by daily cover material; and

(8) a preliminary description of closure activities including schedules for implementation. The activities described shall include, but are not limited to:

(A) site security and structure removal pursuant to §§21135 and 21137;

(B) final cover and grading pursuant to §§21140 and 21142. The description shall include type of materials and estimate of the volume or amount needed of each type of material. If on site materials are planned for use in the final cover for the low permeability layer, test results confirming the suitability of such materials shall be included;

(C) construction quality assurance methods pursuant to §§20323 & 20324;

(D) drainage and erosion control systems pursuant to §21150;

(E) landfill gas monitoring and control systems pursuant to Article 6, Subchapter 4, Chapter 3 (§20920 et seq.);

(F) leachate monitoring and control measures pursuant to §21160.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

2. Change without regulatory effect amending subsection (b)(4) filed 3–8–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 11).
3. Amendment of section heading, subsection (b)(1) and NOTE filed 2–25–2008; operative 2–25–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 21800. CIWMB—Final Closure Plan Contents.

(a) The purpose of the final closure plan is to provide a basis for the operator to establish an accurate detailed estimate of closure costs certified for accuracy by a registered civil engineer or certified engineering geologist, enable the CIWMB to assess the reasonableness of the cost estimate for non–water quality aspects of closure, provide a detailed plan and schedule for the operator to implement upon closure of the landfill, and allow monitoring of closure activities to determine that all requirements of landfill closure have been implemented in accordance with the appropriate plan.

(b) Final closure plans for partial final closure (i.e. the complete closure of discrete units) shall conform to the requirements of this section. Final closure plans for partial closure (i.e. implementation of any one or a combination of individual final closure activities) shall conform to the requirements of this section as applicable.

(c) The final closure plan shall include, but is not limited to, a detailed description of each item contained in §21790(b)(1) through (b)(8). In addition, the final closure plan shall include a detailed description of the sequence of closure stages, giving tentative implementation dates.

(d) The final closure plan shall also include a detailed schedule for disbursement of funds for closure activities.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading and subsection (d), repealer of subsections (d)(1)–(2) and amendment of NOTE filed 2–25–2008; operative 2–25–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 21805. Combined CIWMB and SWRCB Final Closure Plan Contents for Federal Subtitle D Research, Development, and Demonstration Permits.

The final closure plan shall describe how the facility will comply with Section 20070 of Chapter 1 of this Division, if applicable, and include the specific variance(s) in criteria requested; project research goals; environmental monitoring, contingency and mitigation measures to be implemented for the project; and performance measures to determine to what extent the site is progressing in attaining project goals and protection of public health and safety and the environment. The description shall also include a summary and protocols for: 1. project controls to compare project performance with an equivalent or similar operation or activity not authorized by section 20070; 2. if applicable, processing of materials prior to placement in the MSWLF Unit at the facility; 3. potential accumulation of constituents of concern as defined in section 20164 of Chapter 1 of this Division; 4. if applicable, energy recovery; and 5. if applicable, impacts to postclosure maintenance. The description shall be incorporated in each applicable section of the final closure plan, in addition to a separate section describing the overall project.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 40508, 43020 and 43021, Public Resources Code; and 40 CFR Section 258.4.

HISTORY

1. New section filed 9–29–2005; operative 9–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 39).

§ 21810. CIWMB—Final Closure Plan Contents for Clean Closure. (new)

[Note: see also the SWRCB's clean closure requirements under §21090(f)]

(a) The operator of a solid waste landfill may submit a closure plan for solid waste landfills that will be closed by removing solid wastes and contaminated soils (clean closure).

(b) The purpose of the plan for clean closure is to:

(1) establish a closure method for a disposal site that will partially or completely remove solid wastes and contaminated soils to provide remediation of a threat to public health and safety, reduce or eliminate the need for postclosure maintenance, prepare the site for postclosure land uses, or recover materials for recycling or reuse;

(2) provide a basis for the operator to establish an accurate detailed cost estimate for clean closure of the site; and

(3) provide a plan and schedule for the operator to implement at the time of closure.

(c) Each submittal shall be certified by a registered civil engineer or a certified engineering geologist. The minimum components of a plan for clean closure shall include, but not be limited to:

(1) a detailed implementation schedule for clean closure activities;

(2) a characterization of the site conditions to define the extent and character of wastes present and the levels and extent of any soil contamination;

(3) a description of the excavation and material management procedures to be followed;

(4) a description of health and safety procedures to be followed and specific measures to protect public health and safety during clean closure activities; and

(5) [Reserved].

(d) The plan for clean closure shall also include a detailed schedule for disbursement of funds for closure activities in accordance with §21800(d).

(e) After clean closure activities are completed, a verification report confirming that waste and residual contaminated soils have been removed shall be prepared by a registered civil engineer or a certified engineering geologist and submitted for approval to the EA and the CIWMB. The report shall include the following information as appropriate:

(1) if the plan for clean closure was part of a remedial action, a description of any postclosure maintenance activities needed to comply with the implementation of the remedial action plan. In such cases the unit will not be deemed clean closed until completion of the corrective action.

(2) if all solid waste and contaminated soils are not removed, closure and postclosure maintenance plans and a financial assurances mechanism for closure and postclosure maintenance. Such a unit shall not be regarded as having been clean closed (see §21090(f)).

NOTE: Authority cited: Section 40502, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Sections 66796.22(b) and 66796.22(d), Government Code; and Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21815. CIWMB — General Criteria for Cost Estimates.

(a) Cost estimates shall be based on costs the state may incur if the state would have to assume responsibility for the closure or postclosure maintenance due to the failure of the operator to properly and adequately perform any or all of those activities.

(b) Cost estimates shall include, but not limited to,:

(1) Estimates in compliance with §§1770, 1773, and 1773.1 of the Labor Code;

(2) California Department of Transportation (Caltrans) *Labor Surcharge and Equipment Rental Rates;* and

(3) Caltrans "Force Account Payment" included in Section 9–1.03 of the *Caltrans Standard Specifications* (May 2006).

(c) An operator may propose and the CIWMB may accept alternative costs for those included in ¶¶(b)(2) and (3) if the operator provides adequate justification for the use of alternative costs.

(d) Cost estimates shall be supported by adequate documentation to justify the estimates. This documentation shall be submitted with the estimate(s).

(e) Prior to the initiation of closure activities, the operator shall submit one of the following:

(1) a statement that the expected cost for closure construction (based on submitted contractor bids or other appropriate documentation) will be

equal to or less than the cost estimate included in the approved final closure plan or

(2) a revised cost estimate that reflects the expected costs (based on submitted contractor bids or other appropriate documentation).

NOTE: Authority cited: Sections 40502 and 43501, Public Resources Code. Reference: Sections 43020, 43021, 43103 and 43501, Public Resources Code.

HISTORY

1. New section filed 2–25–2008; operative 2–25–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 21820. CIWMB—Closure Cost Estimates.

(a) The operator shall provide a written cost estimate, in current dollars, of the cost of hiring a third party to close the landfill in accordance with the submitted closure plan. Cost estimates shall meet the following criteria:

(1) Cost estimates shall equal the cost of closing the landfill at the point in its active life when the extent and manner of operation would make closure the most expensive, as indicated by the closure plan;

(2) Cost estimates shall be developed for the activities anticipated for scheduled closure. The closure cost estimate shall always be high enough to ensure that, if, at any time, the landfill had to begin to close, the cost of activities for closure would not exceed the cost estimate;

(3) Cost estimates shall include or reflect the design, materials, equipment, labor, administration and quality assurance necessary for closure;

(4) The total closure cost estimate shall be increased by a factor of 20% to account for cost over-runs due to unforeseen circumstances, such as adverse weather conditions and inadequate site characterization, which would result in increased closure costs. The operator may apply to the CIWMB for, and the CIWMB may approve, a contingency percentage of less than 20% at the time that the final closure plan is approved, provided that the CIWMB finds that a lesser percentage will provide acceptable coverage of potential cost overruns;

(5) The operator shall increase the closure cost estimate when changes to the plan or at the landfill increase the cost of closure; and

(6) The operator may reduce the closure cost estimate when changes to the plan or at the landfill decrease the costs of closure. The request for reduction shall be submitted to the CIWMB for approval.

(b) Closure cost estimates shall include, but are not limited to, the following information:

(1) If the documents are preliminary closure and postclosure maintenance plans, an estimate of the cost of developing final closure and postclosure maintenance plans;

(2) an estimate of the cost to prepare plans and specifications, bidding documents, and other construction related documents; and

(3) an estimate of the cost of closure activities including schedules for implementation activities. The activities described shall include, but are not limited to, an estimate of the cost:

(A) to install or upgrade site security;

(B) for structure removal;

(C) to install or upgrade the monitoring and control systems, including landfill gas, leachate, and ground water systems.

(D) to install the final cover; and

(E) to install or upgrade drainage and erosion control systems.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading, section and NOTE filed 2–25–2008; operative 2–25–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 21825. CIWMB—Preliminary Postclosure Maintenance Plan Contents.

(a) The purpose of the preliminary postclosure maintenance plan is to provide a basis for the operator to establish a preliminary estimate of postclosure monitoring, maintenance, and inspection costs certified for accuracy by a registered civil engineer or certified engineering geologist, and enable the CIWMB to assess the reasonableness of the cost estimate.

(b) The preliminary postclosure maintenance plan shall include, but is not limited to the following information:

(1) a description of the planned uses of the property during the postclosure maintenance period in accordance with §21190;

(2) a preliminary description of the methods, procedures, and processes that will be used to maintain, monitor and inspect the closed landfill during the postclosure maintenance period to comply with §21180; and

(3) a postclosure maintenance cost estimate pursuant to §§21815 and 21840.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading and subsections (b)(1) and (2), new subsection (b)(3) and amendment of NOTE filed 2–25–2008; operative 2–25–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 21830. CIWMB—Final Postclosure Maintenance Plan Contents.

(a) The purpose of the final postclosure maintenance plan is to provide a basis for the operator to establish an accurate detailed cost estimate certified for accuracy by a registered civil engineer or certified engineering geologist, enable the CIWMB to assess the reasonableness of the cost estimate, and provide a detailed plan for the inspection, maintenance, and monitoring of the landfill during the postclosure maintenance period.

(b) The final postclosure maintenance plan shall include, but is not limited to, the following information:

(1) the emergency response plan as required by §21130 of Chapter 3, Subchapter 5;

(2) the persons or companies responsible for each aspect of postclosure maintenance, and their addresses and telephone numbers;

(3) a description of the planned uses of the property during the postclosure maintenance period in accordance with §21190 of Chapter 3, Subchapter 5;

(4) an as-built description of the current monitoring and control systems at the landfill including a detailed description of any proposed changes to be implemented as part of closure. This description shall be kept current throughout the postclosure maintenance period;

(5) a detailed description of the methods, procedures and processes that will be used to maintain, monitor and inspect the closed landfill during the postclosure maintenance period to comply with §21180 of Chapter 3, Subchapter 5;

(6) an operations and maintenance plan for the gas control system;

(7) a summary of the requirements for reporting the results of monitoring and collection, pursuant to section §21180 of chapter 3, Subchapter 5; and

(8) the postclosure maintenance cost estimates pursuant to §§21815 and 21840 of this Subchapter.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading, subsections (b)(7)–(8) and NOTE filed 2–25–2008; operative 2–25–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 21835. Combined CIWMB and SWRCB Final Postclosure Maintenance Plan Contents for Federal Subtitle D Research, Development, and Demonstration Permits.

The final postclosure maintenance plan shall describe how the facility will comply with Section 20070 of Chapter 1 of this Division, if applicable, and include the specific variance(s) in criteria requested; project research goals; environmental monitoring, contingency and mitigation measures to be implemented for the project; and performance measures to determine to what extent the site is progressing in attaining project goals and protection of public health and safety and the environment. The description shall also include a summary and protocols for : 1. project

controls to compare project performance with an equivalent or similar operation or activity not authorized by section 20070; 2. if applicable, processing of materials prior to placement in the MSWLF Unit at the facility; 3. potential accumulation of constituents of concern as defined in section 20164 of Chapter 1 of this Division; 4. if applicable, energy recovery; and 5. if applicable, impacts to postclosure maintenance. The description shall be incorporated in each applicable section of the final postclosure maintenance plan, in addition to a separate section describing the overall project.

NOTE: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 40508, 43020 and 43021, Public Resources Code; and 40 CFR Section 258.4.

HISTORY

1. New section filed 9–29–2005; operative 9–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 39).

§ 21840. CIWMB—Postclosure Maintenance Cost Estimates.

(a) The operator shall provide a written estimate, in current dollars, of the cost of hiring a third party to maintain, monitor, and inspect the closed landfill in accordance with the postclosure maintenance plan requirements. Cost estimates shall be subject to the following requirements:

(1) Cost estimates shall be based on the activities described in the postclosure maintenance plan and account for postclosure maintenance of the entire landfill;

(2) Cost estimates shall be of sufficient detail to identify the maintenance costs, repair costs, and replacement costs throughout the postclosure maintenance of the landfill;

(3) The cost estimate used to demonstrate financial assurance, shall be the annual cost of maintenance and monitoring anticipated during the postclosure period, multiplied by thirty (30); and

(A) Cost estimates for those maintenance and monitoring activities which occur less frequently than annually shall be prorated to an annual cost. The expected recurrence period shall be specified in the postclosure maintenance plan; and

(i) Cost estimates for those maintenance and monitoring activities which occur less frequently than every 30 years shall be calculated as occurring every 30 years;

(4) The operator shall modify the postclosure cost estimate, in accordance with §21865 of this Subchapter, when changes in the plan or landfill conditions indicate an increase or decrease in postclosure maintenance costs. Requests for modifications shall be submitted to the CIWMB for approval.

(b) Postclosure maintenance plans shall include a detailed estimate of the annual costs for postclosure monitoring and maintenance, including the following:

(1) site security pursuant to §21135;

(2) maintenance and integrity of the final cover including material acquisition, labor, and placement for repair of the final cover as required due to the effects of settlement, slope failure, or erosion;

(3) maintenance of vegetation including fertilization, irrigation and irrigation system maintenance;

(4) monitoring, operation and maintenance of the environmental monitoring and control systems, including, but not limited to, the landfill gas, leachate, and ground water systems;

(5) maintenance of the drainage and erosion control systems including clearing materials blocking drainage conveyances and repairing drains, levees, dikes and protective berms.

NOTE: Authority cited: Sections 40502 and 40508, Public Resources Code. Reference: Sections 40508, 43020, 43021, 43103, 43501 and 43509, Public Resources Code; and Title 40, Code of Federal Regulations, Section 258.72.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading and section filed 2–25–2008; operative 2–25–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 21860. CIWMB—Schedules for Review and Approval of Closure and Postclosure Maintenance Plans. (T14:§18271)

(a) The schedule for review and approval must conform to provisions of this section. An alternative schedule may be proposed by the operator provided it complies with applicable statute and the EA, RWQCB, and CIWMB concur.

(b) The CIWMB shall coordinate the review of the closure and postclosure maintenance plans unless, on an individual plan basis, the EA or RWQCB requests to be the coordinating agency and the other reviewing agencies concur. The operator shall be notified in writing of the alternative coordinating agency. The coordinating agency shall coordinate all phases of the plan review and perform the duties as delineated in this section. The coordinating agency shall be responsible for coordinating the resolution of any conflicts among the reviewing agencies and to coordinate with the operator to facilitate approval of the plans.

(c) Within 30 days of receipt, closure and postclosure maintenance plans shall be deemed complete by default unless the RWQCB, the EA, or the CIWMB determines and informs the operator that the plan is incomplete pursuant to applicable CIWMB and SWRCB requirements. If determined to be incomplete, the EA, the RWQCB, and the CIWMB shall provide to each other and to the operator a list of specific items missing from the submittal.

(d) If the closure and postclosure maintenance plans is determined by the RWQCB, the EA, or the CIWMB to be incomplete, the operator shall resubmit revised closure and postclosure maintenance plans incorporating all items deemed to be missing from the prior submittal within 60 days following such determination, unless the EA, the RWQCB, and the CIWMB approve an alternate schedule.

(e) Within 120 days of receipt of complete closure and postclosure maintenance plans, the EA, RWQCB, and CIWMB shall complete a detailed review of the submittal, and the reviewing agencies shall submit their comments to the coordinating agency. The complete closure and postclosure maintenance plans shall be deemed approved by that agency unless, within the specified timeframes (120 days for a reviewing agency, 130–days for the coordinating agency), a reviewing or coordinating agency determines and informs the operator that the plans cannot be approved because of lack of compliance with applicable CIWMB or SWRCB requirements. Within 10 days of receipt of the comments, the coordinating agency shall compile all comments and forward them to them to the operator.

[*Note: As required by Water Code sections 13263(f) and 13264(a) and (a)(2), unless concurring without comment, the RWQCB must also convey the rejection or acceptance of the proposal directly to the owner/operator by the end of the 120–day review period.*]

(f) If the closure and postclosure maintenance plans are disapproved by the EA, the RWQCB, or the CIWMB, the operator shall resubmit revised closure and postclosure maintenance plans that ensure compliance with applicable requirements, within 60 days following such determination, unless the EA, the RWQCB, and the CIWMB approve an alternate schedule.

(g) The procedures of subsections (e) and (f) shall be repeated until all comments by the EA, RWQCB, and CIWMB have been adequately addressed, except the review period specified in (e) shall be the greater of 60 days or the alternative schedule approved in (f), but in no case shall be more than 120 days.

(h) Within 10 days after determining that the closure and postclosure plans are in compliance with applicable requirements, the EA and the RWQCB shall inform the CIWMB by letter that they have approved the closure and postclosure maintenance plans. The RWQCB shall provide

copies of any WDR adopted or revised as a result of the review and approval process.

(i) Within 10 days of receipt of the approval letters from the EA and the RWQCB, the CIWMB shall determine if an approval letter for the plans can be issued by the CIWMB. The CIWMB shall not approve the plans if the CIWMB determines that the closure and postclosure maintenance plans are not consistent with state minimum standards, inadequate due to substantive deficiencies in the plan or in the financial assurance mechanism, or the mechanism is not adequately funded for that point in the landfill's life.

(j) If the CIWMB does not approve the closure and postclosure maintenance plans, it shall provide to the operator an explanation of its action and reasons for disapproval and shall provide notice to the EA and the RWQCB.

NOTE: Authority cited: Section 40502, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Sections 66796.22(b) and 66796.22(d), Government Code; and Sections 21080.5 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment filed 2–25–2003; operative 2–25–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 9).

§ 21865. CIWMB—Amendment of Closure and Postclosure Maintenance Plans.

(a) Preliminary closure and postclosure maintenance plans shall be submitted every time a review or revision of the SWFP is conducted. The plans shall be submitted as part of the JTD or a separate document in the form of a distinct component of a JTD. If the preliminary closure and postclosure maintenance plans have been previously approved and a new horizontal or vertical expansion of a solid waste landfill is not proposed, the form of submittal shall be as amendments to the existing plans as necessary. Submittal shall be in accordance with §21780. The evaluation and approval of the plan amendments shall be as specified under §21860.

(b) The plans shall be amended to reflect the following:

(1) A change in operation or solid waste landfill design which would affect the implementation of the closure and/or postclosure maintenance plans;

(2) A change in the anticipated year of closure;

(3) Any change in the financial mechanism required pursuant to §22227, "Substitution of Mechanisms" or §22231, "Cancellation or Nonrenewal by a Provider of Financial Assurance"; or

(4) Updates of the cost estimates shall be based on the current costs on a unit basis (unit costs) for closure and postclosure maintenance. Cost estimate adjustments based only on inflation factors are not acceptable.

[*Note: The intent of subsection (b) is to assure adequate review of the amended portions of the plans and not to institute a comprehensive review of the portions of the plan not subject to the amendments.*]

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of subsections (a) and (b)(4) filed 2–25–2003; operative 2–25–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 9).
3. Amendment of section heading, subsection (b)(4) and NOTE filed 2–25–2008; operative 2–25–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 21870. CIWMB—Implementation of Closure Plan. (new)

(a) Closure Plan implementation shall adhere to the schedules specified in §§21800 and 21810.

(b) Closure, partial final closure, and partial closure activities shall not commence until there is an approved closure and postclosure maintenance plan for the solid waste landfill.

(c) Closure, partial final closure, and partial closure activities shall be conducted pursuant to the approved closure and postclosure maintenance plan.

(d) The EA shall be responsible for ongoing inspections of closure activities and for approval of minor changes from the specifications contained in the approved closure plan. The EA inspections shall be no less than quarterly pursuant to 14 CCR §18083. The CIWMB shall inspect closure activities as necessary to authorize release of financial assurances and shall upon concurrence with the EA and RWQCB approve significant changes from the specifications contained in the approved closure plan. If the RWQCB or EA does not object to the change(s) within 30 days of notification by the CIWMB and the change does not conflict with WDRs or any other order issued by the RWQCB, the change is deemed concurred with by that agency.

(1) The final or partial final closure and postclosure maintenance plans shall be considered as a Report of Facility Information Amendment pursuant to §21665. The final closure and postclosure maintenance plans shall be considered the application package required by §21665(a).

(2) The SWFP shall be deemed to incorporate by reference, as terms and conditions of the permit, the provisions of the final or partial final closure and postclosure maintenance plans and all applicable standards set forth in Chapter 3 — Criteria for All Waste Management Units, Facilities, and Disposal Sites.

(3) No later than upon approval of the Certification of Closure, the EA shall update the permit pursuant to the procedures specified under §21670. This update takes the place of a permit review under §§21620 or 21640.

NOTE: Authority cited: Section 40502, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Section 66796.22(d), Government Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment filed 2–25–2003; operative 2–25–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 9).

§ 21880. CIWMB—Certification of Closure. (T14:§18275)

(a) The operator shall submit to the CIWMB, the EA, and the RWQCB for approval a certification, under penalty of perjury, that the solid waste landfill has been closed in accordance with the approved final closure plan.

(b) The certification shall be completed by a registered civil engineer or certified engineering geologist and include a report with supporting documentation. The report shall include a Final Construction Quality Assurance (CQA) report pursuant to Article 2 of Subchapter 1 of Chapter 3 (§20323 and §20324 et seq.) and any other documentation as necessary to support the certification. The certification, Final CQA report and any other documentation as necessary to support the certification shall be incorporated into the approved postclosure maintenance plan.

(c) Once the certification has been approved by the CIWMB, RWQCB, and the EA, the CIWMB shall release the operator from the financial mechanism for closure.

(d) On the day that the certification of closure is approved, the solid waste landfill shall be considered closed and in postclosure maintenance.

NOTE: Authority cited: Section 40502, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Section 66796.22(d), Government Code; and Sections 43020, 43021, 43103 and 44006, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of subsections (c) and (d) filed 2–25–2003; operative 2–25–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 9).

§ 21890. CIWMB—Revision of Approved Plans for Closure and Postclosure Maintenance. (T14:§18276)

(a) The operator shall adhere to the final closure and postclosure maintenance plans approved pursuant to §21860. Significant changes to the closure and postclosure maintenance plans, after approval of the final plan, shall upon concurrence with the EA be approved by the CIWMB, and the RWQCB.

(b) Postclosure maintenance plans may be revised during the postclosure maintenance period upon concurrence with the EA and approval by the CIWMB, and the RWQCB.

NOTE: Authority cited: Section 40502, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Sections 66796.22(b)(2) and 66796.22(h), Government Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 21900. CIWMB—Release from Postclosure Maintenance. (T14:§18277)

(a) The operator of a solid waste landfill may be released from postclosure, after a minimum period of thirty (30) years upon demonstration to and approval by the CIWMB, the EA, and the RWQCB that the solid waste landfill no longer poses a threat to the public health and safety and the environment.

NOTE: Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code. Reference: Section 66796.22(d), Government Code; and Sections 43020, 43021 and 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

Chapter 5. Enforcement

Articles 1–3. (Reserved—CIWMB)

Article 4. Enforcement by Regional Water Quality Control Board (RWQCB)

§ 22190. SWRCB—Mandatory Closure (Cease and Desist Orders). (C15: §2593)

(a) Source Control—If the RWQCB finds that early closure of a waste management unit (Unit) is necessary to prevent (or curtail) violation of waste discharge requirements [e.g., as a source control measure in corrective action, under §20430(c)], it shall adopt a Cease and Desist Order, pursuant to §13302 of the Water Code, which requires closure according

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to a closure and post-closure maintenance plan approved by the RWQCB.

(b) New/Updated Plan—Any time a Unit is subjected to early closure, under ¶(a), the discharger shall, in accordance with a schedule of compliance issued by the RWQCB, submit to the RWQCB a report including an appropriate closure and post-closure maintenance plan (under §21769), if such a plan applicable to the early-closed configuration of the Unit was not submitted with the report of waste discharge and including a revised schedule for immediate termination of operations and closure.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13301 and 13304, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New chapter 5, article 4 (section 22190) and section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

Chapter 6. Financial Assurances at Solid Waste Facilities and at Waste Management Units for Solid Waste

Subchapter 1. Definitions for Financial Assurance Demonstrations and Requirements

§ 22200. CIWMB—Definitions. (T14:§18281)

When used in this Chapter, the following terms shall have the meanings given below:

(a) "Accidental occurrence" means an event, including pollution exposures, which occurs during the operation of a disposal facility prior to closure, that results in bodily injury and/or property damage, and includes continuous or repeated exposure to conditions, neither expected nor intended from the standpoint of the facility operator.

(b) "Admitted carrier" means an insurance company entitled to transact the business of insurance in this state, having complied with the laws imposing conditions precedent to transactions of such business.

(c) "Annual capacity filled" means the portion of a solid waste landfill's total permitted capacity that was filled during the following period:

(1) From August 18, 1989 until 60 days prior to the anniversary date of the establishment of a trust fund or an enterprise fund; and

(2) From 60 days prior to each anniversary date of the establishment of a trust fund or an enterprise fund that occurs before the subsequent anniversary date.

(d) "Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

(e) "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment," as defined in (dd).

(f) "Bodily injury" means any injury to the body, sickness or disease sustained by a person, including death resulting from any of these at any time. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury."

"Bodily injury" excludes:

(1) "Bodily injury" expected or intended from the standpoint of the operator. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

(2) "Bodily injury" for which the operator is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the operator would have in the absence of the contract or agreement.

(3) Any obligation of the operator under a workers compensation, disability benefits or unemployment compensation law or any similar law.

(4) "Bodily injury" to:

(A) An employee of the operator arising out of and in the course of employment by the operator; or

(B) The spouse, child, parent, brother or sister of that employee as a consequence of ¶(A) above.

This exclusion applies:

1. Whether the operator may be liable as an employer or in any other capacity; and

2. To any obligation to share damages with or repay someone else who must pay damages because or the injury.

(5) "Bodily injury" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any operator. Use includes operation and loading or unloading. This exclusion does not apply to:

(A) Parking an "auto" on, or on the ways next to, premises the operator owns or rents, provided the "auto" is not owned by or rented or loaned to the operator;

(B) "Bodily injury" arising out of the operation of any of the equipment listed in ¶(6)(A) or ¶(6)(B) of the definition of "mobile equipment", found in ¶(aa) below.

(g) "Captive Insurance Company" means an insurance carrier established by a solid waste facility operator to meet the financial assurance obligations of the operator.

(h) "Cash plus marketable securities" means all the cash plus marketable securities held by the local government on the last day of the fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions. Cash plus marketable securities form the numerator of the liquidity ratio.

(1) Cash and cash equivalents means bank deposits, very short-term debt securities, and money market funds.

(2) Marketable securities means interest or dividend bearing securities in the General Fund, Special Revenue Funds, Debt Service Fund, Enterprise Funds and Internal Service Funds, as reported on the comprehensive annual financial report's (CAFR's) Combined Balance Sheet and that are expected to be held for less than one year.

(3) Excluded from this definition are accounts receivable, retirement assets, real property, fixed assets, and other non-current assets, as well as any assets (including cash) in Capital Projects Funds.

(i) "Comprehensive Annual Financial Report (CAFR)" means annual financial report prepared by local governments.

(j) "Cumulative capacity filled" means the sum of the annual capacities filled since August 18, 1989.

(k) "Current assets" means cash or other assets or resources commonly identified as those that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(l) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with §21820.

(m) "Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

(n) "Current postclosure cost estimate" means the most recent of the estimates prepared in accordance with §21840.

(o) "Debt service" means the amount of principal and interest due on a loan in the latest completed fiscal year. Annual debt service is the numerator of the debt service ratio. The debt service ratio provides an indicator of ability to meet financial obligations in a timely manner.

(1) Sum of amounts in any debt service category including bond principal, other debt principal, interest on bonds, interest on other debt in the General Fund, Special Revenue Funds, Debt Service Fund, and Capital Projects Funds.

(2) Debt service amounts are reported in the comprehensive annual financial report's (CAFR's) Combined Statement of Revenues, Expenditures and Changes in Fund Balances/Equity.

(3) Interest expense in Enterprise Funds and Internal Service Funds are reported on comprehensive annual financial report's (CAFR's) Combined Statement of Revenues, Expenses and Changes in Retained Earnings/Fund Balances.

(p) "Enterprise fund" means a fund meeting the requirements of §22241, of Article 2, of Subchapter 3, of this Chapter, that is established to account for the financing of self- supporting activities of a government unit that renders services on a user-fee basis.

(q) "Excess coverage" means assurance for third party bodily injury and property damage costs that are above a specified level (i.e., above the primary coverage level or a limit of lower excess coverage) but up to a specified limit.

(r) "Federal entity" means the United States Government, or any department, agency, or instrumentality thereof.

(s) "Financial means test" means the financial assurance mechanism specified in §22246 of Article 2 of Subchapter 3 of this Chapter by which an operator demonstrates his or her ability to pay third party claims for bodily injury and property damage caused by accidental occurrences and/or to pay future postclosure maintenance costs by satisfying the prescribed set of financial criteria.

(t) "Financial reporting year" means the twelve-month period for which financial statements that are used to support the financial means test are prepared.

(u) "Fully funded" means the value of a closure and/or postclosure maintenance and/or corrective action fund is equal to, or greater than, the total current closure and/or postclosure maintenance and/or corrective action cost estimate(s) for the facility(ies) covered.

(v) "Government securities" means financial obligations meeting the requirements of §22242 of Article 2 of Subchapter 3 of this Chapter that are issued by a federal, state, or local government, including but not limited to, general obligation bonds, revenue bonds, and certificates of participation.

(w) "Guarantee" means a contract meeting the requirements of §22247, of Article 2 of Subchapter 3 of this Chapter, by which a guarantor promises that, if the operator fails to perform postclosure maintenance, or to adequately compensate legitimate third party claimants for bodily injury and/or property damage caused by an accidental occurrence, the guarantor will perform postclosure maintenance, compensate the third party for damages, or will establish and fund a trust fund in the name of the operator to pay for such activities.

(x) "Guarantor" means a parent corporation, or a corporation with a substantial business relationship to the operator who guarantees payment of a present or future obligation(s) of an operator.

(y) "Insurance" means a contract meeting the requirements of §22248 or §22251 of Article 2 of Subchapter 3 of this Chapter by which an insurer promises to pay for closure, postclosure maintenance or corrective action, or a claim by a third party for bodily injury and property damage caused by an accidental occurrence.

(z) "Legal defense costs" means expenses that an operator or a provider of financial assurance incurs in defending claims brought:

(1) By or on behalf of a third party for bodily injury and/or property damage caused by an accidental occurrence; or

(2) By any person to enforce the terms of a financial assurance mechanism.

(aa) "Letter of credit" means a contract meeting the requirements of §22243, of Article 2 of Subchapter 3 of this Chapter, by which the issuing institution promises to extend credit on behalf of an operator to the CIWMB upon the presentation of the mechanism in accordance with its terms.

(bb) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future, as a result of past transactions or events.

(cc) "Minimum fund balance" means the required minimum balance maintained in a trust fund or enterprise fund in compliance with the formula(s) in §22225 or §22226 of Article 1 of Subchapter 3 of this Chapter.

(dd) "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

(1) Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

(2) Vehicles maintained for use solely on or next to premises the operator owns or rents;

(3) Vehicles that travel on crawler treads;

(4) Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

(A) Power cranes, shovels, loaders, diggers or drills; or

(B) Road construction or resurfacing equipment such as graders, scrapers or rollers;

(5) Vehicles not described in ¶¶(1), (2), (3) or (4) above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(A) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

(B) Cherry pickers and similar devices used to raise or lower workers;

(6) Vehicles not described in ¶¶(1), (2), (3) or (4) above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

(A) Equipment designed primarily for:

1. Snow removal;

2. Road maintenance, but not construction or resurfacing;

3. Street cleaning;

(B) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(C) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

(ee) "Net working capital" means current assets minus current liabilities.

(ff) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(gg) "Operating deficit" means total expenditures minus total revenues.

(hh) "Parent corporation" means a corporation that owns directly or through its subsidiaries at least 50 percent of the voting stock of another corporation.

(ii) [Reserved]

(jj) "Pledge of revenue" means a financial assurance mechanism meeting the requirements of §22245, of Article 2 of Subchapter 3 of this Chapter, by which a government unit promises to make specific, identified future revenue available to pay future postclosure maintenance costs.

(kk) "Primary coverage" means the first priority coverage for third party bodily injury and property damage costs, and closure and/or postclosure maintenance costs, up to a specified limit when used in combination with other coverage.

(*ll*) "Property damage" means physical injury to tangible property, including all resulting loss of use of that property, or loss of use of tangible property that is not physically injured. "Property damage" excludes:

(1) "Property damage" expected or intended from the standpoint of the operator.

(2) "Property damage" for which the operator is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the operator would have in the absence of the contract or agreement.

(3) An obligation of the operator under a workers' compensation, disability benefits, or unemployment compensation law or similar law.

(4) "Property damages" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any operator. Use includes operation and loading and unloading. This exclusion does not apply to:

(A) Parking an "auto" on, or on the ways next to, premises the operator owns or rents, provided the "auto" is not owned by or rented or loaned to the operator;

(B) "Property damage" arising out of the operation of any of the equipment listed in ¶(6)(A) or ¶(6)(B) of the definition of "mobile equipment," found in §(dd) above.

(5) "Property damage" to:

(A) Any property owned, rented, or occupied by the operator;

(B) Premises that are sold, given away, or abandoned by the operator if the "property damage" arises out of any part of those premises;

(C) Property loaned to the operator;

(D) Personal property in the care, custody, or control of the operator; and

(E) That particular part of real property on which the operator or any contractors or subcontractors working directly or indirectly on behalf of the operator are performing operations, if the "property damage" arises out of those operations, or

(F) That particular part of any property that must be restored, repaired or replaced because the operator's work was incorrectly performed on it.

(mm) "Provider of financial assurance" means an entity, other than the operator of a disposal facility, that provides financial assurance to the operator including, but not limited to, a trustee, an institution issuing a letter of credit, a surety company, an insurer, a guarantor, or an institution providing a financial assurance mechanism used in conjunction with an enterprise fund, government securities, or pledge of revenue.

(nn) "Remaining cost estimate" means the value remaining when the current value of a closure and/or postclosure maintenance fund is subtracted from the current closure and/or postclosure maintenance cost estimate(s).

(oo) "Remaining permitted capacity" means the total permitted capacity at the disposal facility less the cumulative capacity filled at the disposal facility since August 18, 1989.

(pp) "Substantial business relationship" means a business relationship that arises from a pattern of recent or ongoing business transactions.

(qq) "Surety bond" means a contract meeting the requirements of §22244, of Article 2, of Subchapter 3, of this Chapter, by which a surety company promises that, if the operator fails to perform required closure and/or postclosure maintenance and/or corrective action, the surety company will be liable for the operator's responsibilities as specified by the bond.

(rr) "Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties.

(ss) "Total expenditures" means the sum of the six items listed in subsections (1) and (2) below.

(1) Items 1–3 reported on the comprehensive annual financial report's (CAFR's) Combined Statement of Revenues, Expenses and Changes in Fund Balances/Equity:

(A) Total Expenditures of the General Fund.

(B) Total Expenditures of Special Revenue Funds.

(C) Total Expenditures of the Debt Service Fund.

(2) Items 4–6 reported on the comprehensive annual financial report's (CAFR's) Combined Statement of Revenues, Expenses and Changes in Retained Earnings/Fund Balances:

(A) Total Operating Expenses Before Depreciation of Enterprise Funds

(B) If negative, Total Non–Operating Revenues (Net) of Enterprise Funds.

(C) If negative, Total Non–Operating Revenues (Net) of Internal Service Funds.

(3) Total expenditures is used in the liquidity and debt service ratios, and operating deficit limit.

(4) Include routine capital outlays that are accounted for in the General Fund, e.g. outlays for police vehicles, copy equipment; any capital outlays that are funded on a "pay–as–you–go" basis.

(5) Exclude non–routine capital outlays, which are generally accounted for in Capital Projects Funds.

(tt) "Total permitted capacity" means the capacity approved by the disposal facility permit, including any changes in capacity approved by a new permit or a permit modification; but excluding any capacity filled prior to August 18, 1989.

(uu) "Total revenues" means the sum of the seven items listed in subsections (1) and (2) below, and is used in the calculation of costs which can be assured by the local government financial test.

(1) Items 1–4 reported on the comprehensive annual financial report's (CAFR's) Combined Statement of Revenues, Expenses and Changes in Fund Balances/Equity:

(A) Total Revenues of the General Fund.

(B) Total Revenues of Special Revenue Funds.

(C) Total Revenues of the Debt Service Fund.

(D) Total Revenues of Capital Projects Funds.

(2) Items 5–7 reported on the comprehensive annual financial report's (CAFR's) Combined Statement of Revenues, Expenses and Changes in Retaining Earnings/Fund Balances:

(A) Total Operating Revenues of Enterprise Funds.

(B) If positive, Total Non–Operating Revenues (Net) of Enterprise Funds.

(C) If positive, Total Non–Operating Revenues (Net) of Internal Service Funds.

(3) Total revenues is used in calculation of operating deficit and the limit on costs.

(vv) "Trust fund" means a contract meeting the requirements of §22240, of Article 2, of Subchapter 3 of this Chapter, by which the operator transfers assets to a trustee to hold on behalf of the CIWMB or its designee to pay closure costs and/or postclosure maintenance costs and/or corrective action costs and/or third party operating liability claims.

NOTE: Authority Cited: Sections 40502, 43040 and 43601.5, Public Resources Code. Reference: Sections 43040, 43103 and 43500–43610.1, Public Resources Code; Part 258.74(f) and (h), Title 40, Code of Federal Regulations.

HISTORY

1. New subchapter 1 (section 22200) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. New subsections (g)–(g)(3), (h), (n)–(n)(3), (ff), (rr)–(rr)(5) and (tt)–(tt)(3), subsection relettering, and amendment of NOTE filed 11–23–98; operative 12–23–98 (Register 98, No. 48).
3. Amendment of subsection (e), new subsection (g), subsection relettering, and amendment of newly designated subsection (*l*)(4)(B) filed 5–9–2002; operative 6–8–2002 (Register 2002, No. 19).

Subchapter 2. Financial Assurance Requirements

Article 1. Financial Assurance for Closure

§ 22205. CIWMB—Scope and Applicability. (T14:§18280)

(a) This article requires operators of solid waste landfills to demonstrate the availability of financial resources to conduct closure activities.

(b) The requirements of this article apply to operators of all disposal facilities that are required to be permitted as solid waste landfills pursuant to Chapter 4 of this Division and have been or will be operated on or after January 1, 1988.

(c) Operators of all disposal facilities shall comply with the requirements of this Article upon application for issuance, amendment, modification, revision or review of a SWFP, commencing the effective date of this Article.

NOTE: Authority cited: Sections 40502 and 43509, Public Resources Code. Reference: Sections 43103, 43500, 43600, 43602 and 43603, Public Resources Code.

HISTORY

1. New subchapter 2, article 1 (sections 22205–22207) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22206. CIWMB—Amount of Required Coverage. (T14:§18282)

(a) Except as otherwise noted in §22228 of Article 1 of Subchapter 3 of this Chapter, the operator of each solid waste landfill shall demonstrate financial responsibility to the CIWMB for closure in at least the amount of the current closure cost estimate.

NOTE: Authority Cited: Section 40502, Public Resources Code. Reference: Sections 43103 and 43501, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22207. SWRCB—Closure Funding Requirements. [C15: §§2574(f&g) and 2580(f)]

The requirements of this section apply to dischargers who own or operate a Class II, or Class III waste management unit (Unit) or a mining waste management unit (mining Unit).

(a) Unit Closure Funding—At Class II and Class III Units for which the CIWMB does not require a closure fund, the RWQCB shall require the discharger to establish an irrevocable closure fund (or to provide other means) pursuant to the CIWMB–promulgated sections of this chapter but with the RWQCB named as beneficiary, to ensure closure of each classified Unit in accordance with an approved plan meeting all applicable SWRCB–promulgated requirements of this subdivision. For solid waste disposal sites, the RWQCB shall coordinate with the CIWMB, pursuant to §20950(f).

(b) Mining Unit Closure Funding—For mining Units only, the discharger shall provide for adequate funding to pay for the costs of closure as required by the mining regulations of Article 1, Subchapter 1, Chapter 7 of this division (§22470 et seq.). The discharger shall provide assurance of financial responsibility acceptable to the RWQCB. The RWQCB shall periodically review financial assurances for mining Units and shall modify the financial assurances as necessary to provide continued compliance with this section. If a lead agency acting under the authority of §2774(a) of the Public Resources Code requires assurances of financial responsibility for a mining Unit, these assurances can be used to fulfill the requirement under this paragraph, provided that:

(1) the RWQCB approves the assurance; and

(2) the RWQCB is named as alternate payee.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13226, 13263, and 13267, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

Article 2. Financial Assurance for Postclosure Maintenance

§ 22210. CIWMB—Scope and Applicability. (T14:§18280)

(a) This article requires operators of solid waste landfills to demonstrate the availability of financial resources to conduct postclosure maintenance activities.

(b) The requirements of this article apply to operators of all disposal facilities that are required to be permitted as solid waste landfills pursuant to Chapter 4 of this Division and have been or will be operated on or after January 1, 1988.

(c) Operators of all disposal facilities shall comply with the requirements of this Article upon application for issuance, amendment, modification, revision or review of a SWFP, commencing the effective date of this Article.

NOTE: Authority cited: Sections 40502 and 43509, Public Resources Code. Reference: Sections 43103, 43500, 43600, 43602 and 43603, Public Resources Code.

HISTORY

1. New article 2 (sections 22210–22212) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22211. CIWMB—Amount of Required Coverage. (T14:§18282)

(a) Except as otherwise noted in §22225, the operator of each solid waste landfill shall demonstrate financial responsibility to the CIWMB for postclosure maintenance in at least the amount of the current postclosure cost estimate.

NOTE: Authority Cited: Section 40502, Public Resources Code. Reference: Sections 43103 and 43501, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22212. SWRCB—Post–Closure Funding Requirements. [C15: §§2574(f&g) and 2580(f)]

The requirements of this section apply to dischargers who own or operate a Class II or Class III waste management unit (Unit) or a mining waste management unit (mining Unit).

(a) Non–Mining Units—At Class II and Class III Units for which the CIWMB does not require a closure fund, the RWQCB shall require the discharger to establish an irrevocable fund (or to provide other means) pursuant to the CIWMB–promulgated sections of this chapter but with the RWQCB named as beneficiary, to ensure post–closure maintenance of each classified Unit in accordance with an approved plan meeting all applicable requirements of this subdivision. For solid waste landfills, the RWQCB shall coordinate with the CIWMB, pursuant to §20950(f).

(b) Mining Units—The discharger shall provide for adequate funding to pay for the costs of closure post–closure maintenance at mining Units, as required by the mining regulations of Article 1, Subchapter 1, Chapter 7 of this division (§22470 et seq.). The discharger shall provide assurance of financial responsibility acceptable to the RWQCB. The RWQCB shall periodically review financial assurances for mining Units and shall modify the financial assurances as necessary to provide continued compliance with this section. If a lead agency acting under the authority of §2774(a) of the Public Resources Code requires assurances of financial responsibility for a mining Unit, these assurances can be used to fulfill the requirement under this paragraph, provided that:

(1) the RWQCB approves the assurance; and

(2) the RWQCB is named as alternate payee.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13226, 13263, and 13267, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

Article 3. CIWMB—Financial Assurance Requirements for Operating Liability

§ 22215. CIWMB—Scope and Applicability. (T14:§18230)

(a) This article requires operators of disposal facilities to demonstrate adequate financial ability to compensate third parties for bodily injury and property damage caused by facility operation prior to closure.

(b) Operators of all disposal facilities, except state and federal operators, shall comply with the requirements of this Article upon application for issuance, amendment, modification, revision or review of a SWFP, commencing July 1, 1992.

NOTE: Authority cited: Sections 40502 and 43040, Public Resources Code. Reference: Sections 43040 and 43103, Public Resources Code.

HISTORY

1. New article 3 (sections 22215–22216) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22216. CIWMB—Amount of Required Coverage. (T14:§18232)

(a) An operator of one or more disposal facilities shall demonstrate financial responsibility for compensating third parties for bodily injury and property damage caused by any accidental occurrences, including exposures to pollution, in at least the amount of:

(1) One million dollars ($1,000,000) per occurrence; and

(2) One million dollars ($1,000,000) annual aggregate for 1 facility.

(3) Two million dollars ($2,000,000) annual aggregate for 2 facilities.

(4) Three million dollars ($3,000,000) annual aggregate for 3 facilities.

(5) Four million dollars ($4,000,000) annual aggregate for 4 facilities.

(6) Five million dollars ($5,000,000) annual aggregate for 5 or more facilities, which is the maximum coverage required.

(b) The required amounts of coverage shall be exclusive of legal defense costs, deductibles and any self-insured retention.

(c) The required amounts of coverage shall apply exclusively to an operator's facility or facilities located in the State of California.

(d) An operator may use one or more mechanisms to provide proof of financial assurance.

(e) If a trust fund or government securities is depleted to compensate third parties for bodily injuries and/or property damages caused by accidental occurrences, the operator shall, within one year of the depletion, demonstrate financial responsibility for the full amount of coverage required by ¶(a) by replenishing the depleted mechanism(s) and/or acquiring additional financial assurance mechanism(s).

(f) If an environmental liability fund is depleted to compensate third parties for bodily injuries and/or property damages caused by an accidental occurrence, the operator shall, within one year of the depletion, demonstrate financial responsibility for the full amount of coverage required by §22253, as if no depletion had occurred.

NOTE: Authority cited: Sections 40502 and 43040, Public Resources Code. Reference: Sections 43040 and 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

Article 4. Financial Assurance Requirements for Corrective Action

§ 22220. CIWMB—Scope and Applicability (new).

(a) This article requires operators of disposal facilities to demonstrate the availability of financial resources to conduct corrective action activities as required under Article 1, Subchapter 3, Chapter 3 (§20380 et seq.).

(b) The requirements of this article apply to operators of all disposal facilities that are required to be permitted as solid waste landfills and have been or will be operated on or after July 1, 1991.

NOTE: Authority cited: Sections 40502 and 40508, Public Resources Code. Reference: Sections 40508 and 43103, Public Resources Code; Section 258.73, Title 40, Code of Federal Regulations.

HISTORY

1. New article 4 (sections 22220–22222) and section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 22221. CIWMB—Amount of Required Coverage. (T14:§17258.73)

(a) Except as otherwise noted in §22226, the operator of each disposal facility shall demonstrate financial responsibility to the CIWMB for initiating and completing corrective action for all known or reasonably foreseeable releases from the disposal facility as required under Article 1, Subchapter 3, Chapter 3 (§20380 et seq.) in at least the amount of the current corrective action cost estimate reviewed and approved by the appropriate RWQCB.

(1) The operator of each disposal facility required to demonstrate financial responsibility to undertake a corrective action program must have a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the program required under Article 1, Subchapter 3, Chapter 3 (§20380 et seq.). The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period.

(2) The operator must annually adjust the estimate for inflation until the corrective action program is completed in accordance with Article 1, Subchapter 3, Chapter 3 (§20380 et seq.).

(3) The operator must increase the corrective action cost estimate and the amount of financial assurance provided under ¶(a) if changes in the corrective action program or disposal facility conditions increase the maximum costs of corrective action.

(4) The operator may reduce the amount of the corrective action cost estimate and the amount of financial assurance provided under ¶(a) if the cost estimate exceeds the maximum remaining costs of corrective action. The operator must receive authorization from the CIWMB approving the reduction of the corrective action cost estimate before adjusting the financial mechanism used to demonstrate coverage.

NOTE: Authority cited : Sections 40502 and 40508, Public Resources Code. Reference: Sections 40508 and 43103, Public Resources Code; Section 258.73, Title 40, Code of Federal Regulations.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

§ 22222. SWRCB—Corrective Action Funding Requirements. [C15: §2550.0(b) and §2580(f)]

The requirements of this section apply to dischargers who own or operate a Class II or Class III waste management unit (Unit). This section does not apply to discharges of mining waste to mining waste management units (mining Units). [*Note: The requirements of this paragraph do not preclude the RWQCB (under authority other than this subdivision) from requiring financial assurance for a known or reasonably foreseeable release at a mining Unit.*] At Units for which the CIWMB does not require financial assurances for corrective action, the RWQCB shall require the discharger to establish an irrevocable fund (or to provide other means) pursuant to the CIWMB-promulgated sections of this chapter but with the RWQCB named as beneficiary, to ensure funds are available to address a known or reasonably foreseeable release from the Unit, pursuant to §20380(b). For addressing a known or reasonably foreseeable release at a solid waste landfill, the RWQCB shall coordinate with the CIWMB, pursuant to §20380(b) and in a manner consistent with §20950(f).

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13226, 13263, and 13267, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

Subchapter 3. Allowable Mechanisms

Article 1. CIWMB—General Requirements for Mechanisms

§ 22225. Minimum Closure and/or Postclosure Maintenance and/or Reasonably Foreseeable Corrective Action Fund Balance Calculation. (T14:§18282)

(a) Except as provided in ¶(b), and §22228, an operator using a trust fund or an enterprise fund to demonstrate financial responsibility for closure and/or postclosure maintenance and/or reasonably foreseeable corrective action costs shall maintain a fund balance equal to or exceeding the amount specified by the following provisions:

(1) By each anniversary date of the establishment of the fund, the operator shall submit the following information to the CIWMB. The estimates shall be consistent with the information in the solid waste landfill's current Report of Disposal Site Information specified in §21680, and/or the most recently submitted closure plan, or postclosure maintenance plan, and/or reasonably foreseeable corrective action cost estimate.

(A) A demonstration of the minimum fund balance calculation as required in ¶(a)(2);

(B) The annual capacity filled during the past year;

(C) The cumulative capacity filled;

(D) The remaining cost estimate;

(E) The remaining permitted capacity; and

(F) The total permitted capacity.

(2) On each anniversary date of the establishment of the fund, the minimum fund balance shall be increased by the quantity determined by the following formulas:

(A) For anniversary dates that occur before December 31, 1993, the minimum deposit is calculated by, (Cf/Ct) X E = minimum deposit, where Cf is the annual capacity filled, Ct is the total permitted capacity, and E is the current closure and/or postclosure cost and/or reasonably foreseeable corrective action costs estimate(s) covered by the fund; and

(B) For anniversary dates that occur on or after December 31, 1993, the minimum deposit is calculated by, (Cf/Cr) X Er = minimum deposit, where Cf is the annual capacity filled, Cr is the remaining permitted capacity, Er is the remaining closure and/or postclosure cost and/or reasonably foreseeable corrective action costs estimate(s) to be funded.

(3) The fund must be fully funded by the time the last shipment of waste has been received at the disposal facility.

(4) The CIWMB may approve a change of the anniversary date of the establishment of the fund only once, and at the written request of the operator. The operator may execute the anniversary date change only after the CIWMB has approved the change.

(b) If an operator establishes a trust fund or enterprise fund after using one or more alternate mechanisms specified in this Article, the initial payment into the fund must be at least the amount that the fund would contain if the trust fund or enterprise fund were established initially and annual payments were made according to the formula(s) specified in this section.

NOTE: Authority Cited: Section 40502, Public Resources Code. Reference: Sections 43103 and 43501, Public Resources Code.

HISTORY

1. New subchapter 3, article 1 (sections 22225–22237) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22226. CIWMB—Minimum Fund Balance Calculation for Known Corrective Action. (T14:§17258.74)

(a) An operator using a trust fund or an enterprise fund to demonstrate financial responsibility for known corrective action costs shall maintain a fund balance equal to or exceeding the amount specified by the following provisions:

(1) Payments into the known corrective action fund must be made annually by the operator over one–half of the estimated length of the known corrective action program. This period is referred to as the pay–in period.

(2) For a trust fund or enterprise fund used to demonstrate financial assurance for corrective action, the first payment into the fund must be at least equal to one–half of the current cost estimate for corrective action, divided by the number of years in the corrective action pay–in period as defined in ¶(a)(1). The amount of subsequent payments must be determined by the following formula:

$$\text{Next Payment:} \quad \frac{RB - CV}{Y}$$

where RB is the most recent estimate of the required fund balance for corrective action (i.e., the total costs that will be incurred during the second half of the corrective action period), CV is the current value of the fund, and Y is the number of years remaining in the pay–in period.

(3) The initial payment into the fund must be made no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Article 1, Subchapter 3, Chapter 3 (§20380 et seq.).

(4) If the operator establishes a fund after having used one or more alternate mechanisms specified in this Subchapter, the initial payment into the fund must be at least the amount that the fund would contain if the fund were established initially and annual payments made according to the specifications of this section.

(5) The fund may be terminated by the operator only if the operator substitutes alternate financial assurance as specified in this Subchapter or is no longer required to demonstrate financial responsibility in accordance with the requirements of Article 4 of Subchapter 2 of this Chapter.

NOTE: Authority cited: Sections 40502 and 40508, Public Resources Code. Reference: Sections 40508 and 43103, Public Resources Code; Section 258.74, Title 40, Code of Federal Regulations.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22227. CIWMB—Substitution of Mechanisms. (T14:§18241,18293)

(a) An operator may substitute any alternate financial assurance mechanism(s) acceptable to the CIWMB as specified in this Subchapter, provided that at all times the operator maintains an effective mechanism or a combination of effective mechanisms that satisfies the applicable requirements of this Subchapter.

(b) After obtaining alternate financial assurance, an operator may request that the CIWMB terminate or authorize the termination of a financial assurance mechanism. The operator shall submit such a request in writing with evidence of alternate financial assurance.

(c) Following approval by the CIWMB, the operator may cancel a financial assurance mechanism by giving notice to the provider of financial assurance.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43103 and 43500–43610, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22228. CIWMB—Acceptable Mechanisms and Combination of Mechanisms. (T14:§17258.74,18233,18283)

(a) Subject to the limitations and conditions of ¶(b) through ¶(*l*), an operator shall use any one, or any combination of mechanisms as described in Article 2 of this Subchapter:

(1) §22240, Trust Fund;
(2) §22241, Enterprise Fund;
(3) §22242, Government Securities;
(4) §22243, Letter of Credit;
(5) §22244, Surety Bond;
(6) §22245, Pledge of Revenue;
(7) §22246, Financial Means Test;
(8) §22247, Guarantee;
(9) §22248, Closure and/or Postclosure Maintenance and/or Reasonably Foreseeable Corrective Action Costs Insurance;
(10) §22249, Local Government Financial Test;
(11) §22249.5, Local Government Guarantee;
(12) §22250, Federal Certification;
(13) §22251, Liability Insurance;
(14) §22252, Self–Insurance and Risk Management;
(15) §22253, Insurance and Environmental Fund; and
(16) §22254, State Approved Mechanism.

(b) Any mechanism(s) used to demonstrate financial responsibility shall be updated within 60 days after changes are made in the amount of any current closure or postclosure cost estimate or third party liability coverage requirement or corrective action cost estimate covered by the mechanism(s).

(c) If a combination of mechanisms as described in Article 2 of this Subchapter are chosen, the operator shall designate one mechanism as "primary" and all others as "excess" coverage.

(d) If an operator combines a trust fund and/or an enterprise fund with any other mechanism to cover closure costs and/or postclosure maintenance costs and/or third party operating liability coverage requirements and/or corrective action costs, the operator may only use the fund buildup authorized by §22225 and/or §22226, for the portion of closure and/or postclosure maintenance costs and/or corrective action costs covered by the trust fund and/or enterprise fund.

(e) The enterprise fund, government securities, local government financial test, and self–insurance and risk management mechanisms are acceptable only for disposal facilities operated by government agencies. A local government guarantee and a pledge of revenue may be used by an operator or provider of financial assurances that is a government

agency for a disposal facility to demonstrate financial responsibility for postclosure maintenance and/or corrective actions.

(f) An operator shall not combine a performance bond or a local government guarantee with any other mechanism(s) for closure, for postclosure maintenance, or for corrective action.

(g) The financial means test and guarantee mechanisms are acceptable only for disposal facilities operated by private firms. A private operator may combine a financial means test with a guarantee only if, for the purpose of meeting the requirements of the financial means test, the financial statements of the operator are not consolidated with the financial statements of the guarantor.

(h) The insurance and environmental fund mechanism shall not be combined with any other mechanisms identified in ¶(a).

(i) The Federal Certification mechanism provided in §22250 shall only be used by federal entities.

(j) A government agency may act as a provider of financial assurance for a disposal facility by using a pledge of revenue to demonstrate financial responsibility for postclosure maintenance on behalf of a private operator, if either:

(1) The agency owns the facility; or

(2) The agency is the rate setting authority and has control of the waste stream in the jurisdiction where the disposal facility is located.

(k) A government agency may provide a local government guarantee for a disposal facility of another government agency or private company.

NOTE: Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code. Reference: Sections 43040, 43103 and 43500–43610.1, Public Resources Code; Part 258.74(f) and (h), Title 40, Code of Federal Regulations.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Editorial correction of NOTE (Register 98, No. 48).
3. New subsections (a)(10) and (a)(11), subsection renumbering, amendment of subsections (e) and (f), new subsection (k) and amendment of NOTE filed 11–23–98; operative 12–23–98 (Register 98, No. 48).
4. Amendment of subsections (a) and (f) filed 5–9–2002; operative 6–8–2002 (Register 2002, No. 19).

§ 22229. CIWMB—Use of Multiple Mechanisms. (T14:§17258.74)

(a) An operator may satisfy the requirements of this Chapter by establishing more than one financial mechanism per disposal facility. The mechanisms must be as specified in Article 2 of this Subchapter, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current coverage requirement of Subchapter 2.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43103 and 43500–43610, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22230. CIWMB—Use of Mechanism(s) for Multiple Facilities (new).

(a) An operator may use one or more of the financial assurance mechanisms specified in Article 2 of this Subchapter, to provide financial assurance for more than one disposal facility. The amount of funds provided shall be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each disposal facility. In directing funds for designated activities of any of the disposal facilities covered by the mechanism(s), only the amount of funds designated for that activity at that disposal facility may be used.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43103 and 43500–43610, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22231. CIWMB—Cancellation or Nonrenewal by a Provider of Financial Assurance. (T14:§17258.74,18242,18294)

(a) Except as otherwise provided in §22232, a provider of financial assurance may cancel or not renew a financial assurance mechanism by sending a notice of termination by certified mail to the operator, and the CIWMB.

(1) Termination of a letter of credit, a surety bond, an insurance policy, or a guarantee shall not occur until 120 days after the date on which the operator, and the CIWMB have received the notice of termination, as evidenced by the return receipts.

(2) If a provider of financial assurance cancels or fails to renew a mechanism for reasons other than its bankruptcy or incapacity, the operator shall obtain alternate coverage within 60 days after receiving the notice of termination. If the operator fails to obtain alternate coverage within the 60 days, the operator shall notify the CIWMB of such failure.

(b) The closure and/or postclosure maintenance and/or reasonably foreseeable corrective action costs insurance policy, issued in accordance with §22248, shall provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy shall, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the operator, and the CIWMB 120 days in advance of cancellation. If the insurer cancels the policy, the operator must obtain alternate financial assurance as specified in §22228. If the operator fails to demonstrate alternate financial assurance as specified in §22228 within 60 days after receiving the notice of termination, the CIWMB may allow the insurer an extension to the term of the insurance policy for a period of time shorter than one year. Cancellation, termination, or failure to renew will not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(1) The CIWMB or enforcement agency deems the disposal facility abandoned; or

(2) The permit is terminated or revoked or a new permit is denied by the CIWMB or enforcement agency; or

(3) Closure is ordered by the CIWMB, or any other state or federal agency, or a court of competent jurisdiction; or

(4) The operator is named as a debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy) U.S. Code; or

(5) All delinquent premium payments have been brought current.

(c) Cancellation or nonrenewal of third party operating liability insurance or self–insurance and risk management for third party operating liability coverage shall occur no less than 60 days after the date on which the operator, and the CIWMB have received the notice of termination, as evidenced by the return receipts; except in the case of non–payment of insurance premiums, in which case cancellation shall occur no less than 10 days after the date on which the operator, and the CIWMB have received the notice of termination.

NOTE: Authority cited: Sections 40502 and 43040, Public Resources Code. Reference: Sections 43040, 43103 and 43500–43610, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22232. CIWMB—Bankruptcy or Other Incapacity of Operator or Provider of Financial Assurance. (T14:§18243,18295)

(a) Within 10 days after commencement of a voluntary or involuntary proceeding under the Bankruptcy Code, Title 11 U.S.C. sections 101–1330 in which:

(1) The operator is named as debtor, the operator shall notify the CIWMB by certified mail of such commencement.

(2) A provider of financial assurance is named as debtor, such provider shall notify the operator, and the CIWMB certified mail of such commencement.

(b) An operator shall be deemed to be without the required financial assurance in the event of bankruptcy of its provider of financial assurance, or in the event of a suspension or revocation of the authority of the provider of financial assurance to issue a mechanism. If such an event occurs, the operator shall demonstrate alternate financial assurance as specified in this Article within 60 days after receiving notice of the event. If

the operator fails to obtain alternate financial assurance within 60 days, the operator shall notify the CIWMB within 10 days of such failure.

NOTE: Authority cited: Sections 40502 and 43040, Public Resources Code. Reference: Sections 43040, 43103 and 43500–43610, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22233. CIWMB—Record Keeping and Reporting. (T14:§18244,18297)

(a) An operator shall maintain evidence of all financial assurance mechanisms until the operator is released from the requirements as specified in §22235. This evidence shall be maintained at each disposal facility, whenever possible, or at an alternate, designated location approved by the CIWMB and which is accessible to the operator, and available for CIWMB staff review.

(b) An operator shall maintain the following types of evidence, and an original or copy of each mechanism used to demonstrate financial responsibility under this Chapter and documentation of the estimated total permitted capacity of the solid waste landfill.

(1) Trust Fund. An operator using a trust fund shall maintain documentation of the remaining capacity filled during the past year for each disposal facility covered by the fund for each year of the buildup period and a copy of the trust agreement and statements verifying the current balance of the fund.

(2) Enterprise Fund. An operator using an enterprise fund shall maintain documentation of the remaining capacity filled during the past year for each disposal facility covered by the fund for each year of the buildup period and a copy of the following:

(A) All official resolutions, forms, letters, or other pertinent documents generated to establish the fund;

(B) The annual financial statements of the fund; and

(C) With respect to the financial assurance mechanism into which enterprise fund revenue is deposited:

1. Identify the disposal facilities and the current closure and/or postclosure costs estimate(s) and/or third party operating liability coverage requirement and/or corrective action cost estimate(s) covered by the mechanism;

2. Include a letter from an authorized officer of the institution maintaining the mechanism identifying the amount of coverage provided by the mechanism as of the date of its establishment and each anniversary date of establishment; and

3. Include a copy of the evidence documenting that the mechanism meets the requirements of §22241.

(3) Government Securities. An operator using government securities shall maintain a copy of the following:

(A) All official resolutions, forms, letters, or other pertinent documents generated to issue the securities;

(B) The terms of issuance of the securities; and

(C) With respect to the mechanism into which the funds generated by the issuance are deposited, the information listed in §22233(b)(2)(C)1, 2 and 3.

(4) Pledge of Revenue Agreement. An operator using a pledge of revenue shall do both of the following:

(A) Maintain a copy of the following:

1. All official resolutions, forms, letters, and other pertinent documentation generated to authorize the pledge of revenue;

2. The agreement between the CIWMB and the operator or provider of financial assurance as specified in §22245; and

3. Documentation that the pledged revenue will be available in a timely manner to pay postclosure maintenance costs.

(B) Submit to the CIWMB, at least annually in conjunction with the adjustment of cost estimates pursuant to §22236, a demonstration that the pledge is still in effect.

(5) Financial Means Test. An operator using a financial means test shall maintain a copy of the information specified in §22246.

(6) Guarantee. An operator using a guarantee shall maintain documentation of the guarantor's qualifications for providing a guarantee under §22246 and §22247.

(7) Closure and/or Postclosure Maintenance and/or Reasonably Foreseeable Corrective Action Costs Insurance. An operator using closure and/or postclosure maintenance and/or reasonably foreseeable corrective action costs insurance shall maintain a copy of the insurance certificate submitted to the CIWMB, the insurance policy and any endorsements thereon.

(8) Operating Liability Insurance. An operator using third party operating liability insurance shall maintain the original or a copy of the insurance policy in addition to the original or a copy of the liability insurance endorsement or the certificate of liability insurance.

(9) Self–Insurance and Risk Management. An operator using self–insurance and risk management shall maintain:

(A) The name and qualifications of the currently employed risk manager;

(B) Pertinent documents verifying the ongoing activity of the operator's safety and loss prevention program; and

(C) Pertinent documents showing procedures for timely investigation and resolution of any claims for third party damages caused by accidental occurrences and other self–insured losses.

(10) Insurance and Environmental Fund. An operator using the insurance and environmental fund shall maintain the original or a copy of the comprehensive general liability insurance coverage certification and a copy of the environmental liability fund agreement and statements verifying the current balance of the environmental liability fund. If self–insurance and risk management is utilized for the insurance coverage, documentation shall be maintained as identified in ¶(9).

(11) Local Government Financial Test. An operator using a local government financial test shall maintain a copy of the information specified in §22249.

(12) Local Government Guarantee. An operator using a guarantee shall maintain, documentation of the guarantor's qualifications for providing a guarantee under §22249 and §22249.5.

(c) An operator shall submit the documentation of current evidence of financial responsibility listed in ¶(b) to the CIWMB whenever a financial assurance mechanism is established or amended or canceled or not renewed for any reason:

(1) In the case of a trust fund such documentation shall include the original mechanism and a copy of the current statement verifying the balance of the account;

(2) In the case of government securities such documentation shall include the information as specified in ¶(b)(3);

(3) In the case of a letter of credit, surety bond, financial means test, or guarantee, such documentation shall include the original mechanism and all amendments;

(4) In the case of closure and/or postclosure maintenance and/or reasonably foreseeable corrective action costs insurance, or insurance or self–insurance and risk management for third party operating liability coverage, such documentation shall include the original insurance endorsement, certificate of insurance, certificate of self–insurance and risk management, and any endorsements thereon;

(5) In the case of the insurance and environmental liability fund, the insurance or self– insurance and risk management documentation shall include the original certification of comprehensive general liability insurance, or certification of self–insurance and risk management. The documentation for the environmental liability fund shall include the original environmental liability fund agreement and a copy of the current statement verifying the balance of the account, as specified in §22253.

(d) An operator shall annually submit written notice to the CIWMB of the number of claims paid and the total dollar amount paid as a result of any accidental occurrences at the disposal facility. This information shall be compiled for the previous calendar year and submitted to the CIWMB by March 1st of each year.

NOTE: Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code. Reference: Sections 43040, 43103 and 43500–43610.1, Public Resources Code; Part 258.74(d), (f) and (h), Title 40, Code of Federal Regulations.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. New subsections (b)(11) and (b)(12) and amendment of NOTE filed 11–23–98; operative 12–23–98 (Register 98, No. 48).
3. Amendment of subsections (c)(3) and (c)(4) and amendment of NOTE filed 5–9–2002; operative 6–8–2002 (Register 2002, No. 19).

§ 22234. CIWMB—Disbursements from Financial Mechanisms.

(a) The operator, or other person authorized to conduct closure, postclosure maintenance, or corrective action activities may request disbursements from the CIWMB for these expenditures in advance of the activities or as reimbursement for activities completed. Requests for disbursement will be granted by the CIWMB only if:

(1) Sufficient funds are remaining in the financial mechanism(s) to cover the remaining costs of closure, postclosure maintenance, or corrective action; and

(2) Justification and documentation of the cost is presented to the CIWMB for review and approval in conjunction with approved final closure and postclosure maintenance plans, or an approved corrective action plan.

(b) The CIWMB shall authorize disbursements from an established closure or postclosure maintenance financial assurance mechanism to the RWQCB for the costs of closure or postclosure maintenance if the RWQCB finds that the operator has failed to perform closure or postclosure maintenance as required by the closure plan or postclosure maintenance plan as approved by the RWQCB and the CIWMB, or as required by an Order issued by the RWQCB, including Waste Discharge Requirements (WDRs), Cease and Desist Orders (CDOs), and/or Cleanup and Abatement Orders (CAOs).

(c) The CIWMB shall authorize disbursements from an established corrective action financial assurance mechanism to the RWQCB for the costs of corrective action if the RWQCB finds that the operator has failed to perform corrective action as required by the corrective action workplan as approved by the RWQCB and the CIWMB, or as required by an Order issued by the RWQCB, including WDRs, CDOs, and/or CAOs.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43103 and 43500 – 43610, Public Resources Code; Title 40, Code of Federal Regulations, Section 258.74(a)(7).

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading and subsection (a) filed 2–25–2008; operative 2–25–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 22235. CIWMB—Release of Financial Assurance Requirements. (T14:§18245,18298)

(a) After receiving and approving certification of closure from the operator as specified by §21880, the CIWMB shall notify the operator and the provider of financial assurance in writing, that he or she is no longer required to demonstrate financial responsibility for closure and third party operating liability claims, pursuant to this Chapter, at the particular disposal facility pursuant to this Article.

(b) When operational control of a disposal facility is transferred, the existing operator shall remain subject to the requirements of this Chapter until the new operator provides acceptable financial assurances to the CIWMB.

(c) When the CIWMB determines that an operator has completed postclosure maintenance in accordance with the applicable postclosure plan, the CIWMB shall notify the operator in writing that it is no longer required to maintain financial assurance for postclosure maintenance of the particular solid waste landfill pursuant to this Chapter.

(d) When the CIWMB releases an operator that is using a trust fund or a similar financial assurance mechanism in conjunction with an enterprise fund or government securities from the requirements of this Chapter, the CIWMB shall authorize the termination of the trust fund or the similar mechanism.

NOTE: Authority cited: Sections 40502 and 43040, Public Resources Code. Reference: Sections 43040, 43103 and 43500–43610, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22236. CIWMB—Annual Inflation Factor. (T14:§18272)

The operator shall submit, by June 1 of each year, a report calculating the increase in the cost estimates for closure and/or postclosure maintenance and/or corrective action due to the inflation factor for the previous calendar year. The inflation factor is derived from the annual Implicit Price Deflator for Gross National Product as published annually by the U.S. Department of Commerce in its Survey of Current Business, which is incorporated by reference. The inflation factor is the result of dividing the latest annual published deflator by the deflator for the previous year. The operator shall increase the monetary amount of the financial mechanism required under this Chapter based upon this inflation factor. The mechanism may not be decreased other than as a result of the closure and/or postclosure maintenance and/or corrective action plan amendment process.

NOTE: Authority Cited: Section 40502, Public Resources Code. Reference: Sections 43103 and 43501, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22237. CIWMB—Depository Trust Fund. (T14:§18296)

(a) The CIWMB may require an operator using a letter of credit, a surety bond, or, as applicable, a financial assurance mechanism used in conjunction with an enterprise fund or with government securities, to establish a depository trust fund meeting the requirements of ¶(c) if:

(1) The operator fails to demonstrate alternate financial assurance within 60 days after receiving notice of cancellation of the mechanism; or

(2) The operator fails to perform closure or postclosure maintenance or corrective action in accordance with the applicable approved closure or postclosure maintenance plan and permit requirements or corrective action requirements of Article 1, Subchapter 3, Chapter 3 (§20380 et seq.), when required to do so by the CIWMB or RWQCB and, in the case of a performance bond, the surety company fails to perform such activities on behalf of the operator.

(b) The CIWMB may require an institution issuing a letter of credit, a surety company, or, as applicable, a provider of a financial assurance mechanism used in conjunction with an enterprise fund or government securities to:

(1) Establish a depository trust fund meeting the requirements of ¶(c) if the operator fails to establish a depository trust fund as required by ¶(a); and

(2) Place into the depository trust fund an amount of funds, stipulated by the CIWMB, up to the limit of funds provided by the financial assurance mechanism.

(c) The depository trust fund shall meet the requirements of §22240.

(d) The CIWMB may draw on the depository trust fund as specified by the trust agreement.

(e) If, at any time, due to interest earned or over deposit, the value of the depository trust fund is greater than the required amount of coverage minus the amount of coverage demonstrated by other mechanisms, the provider of financial assurance that established the depository trust fund may request in writing that the CIWMB authorize the release of the excess funds. No later than 60 days after receiving such a request, the CIWMB will review the request and, if any excess funds are verified, will instruct the trustee to release the funds.

NOTE: Authority Cited: Section 40502, Public Resources Code. Reference: Sections 43103 and 43500–43610, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

Article 2. CIWMB—Financial Assurance Mechanisms

§ 22240. CIWMB—Trust Fund.

(a) The trust fund shall have a trustee that is authorized to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(b) The trust agreement shall be worded as specified by and established by using Form CIWMB 100 (11/06) which is incorporated by reference, with appropriate amendments to identify that the mechanism is utilized for closure and/or postclosure maintenance and/or third party operating liability and/or corrective action.

(c) If, at any time, the value of the trust fund is greater than the required amount of coverage minus the amount of coverage demonstrated by another mechanism, the operator may request in writing that the CIWMB authorize the release of the excess funds. The CIWMB shall review the request within 90 days of receipt of the request. If any excess funds are verified, the CIWMB shall instruct the trustee to release the funds.

NOTE: Authority cited: Sections 40502 and 43040, Public Resources Code. Reference: Section 43040, 43103 and 43500–43610, Public Resources Code.

HISTORY

1. New article 2 (sections 22240–22254) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

2. Amendment of section heading and subsection (b) filed 2–25–2008; operative 2–25–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 22241. CIWMB—Enterprise Fund. (T14:§18285)

(a) The enterprise fund shall dedicate its revenue exclusively or with exclusive first priority to financing closure and/or postclosure maintenance and/or corrective action.

(b) Revenue generated by an enterprise fund shall be deposited into a financial assurance mechanism that the operator demonstrates, to the satisfaction of the CIWMB, meets the following requirements:

(1) The mechanism will provide equivalent protection to a trust fund in ensuring that the assured amount of funds shall be available in a timely manner for closure and/or postclosure maintenance and/or corrective action;

(2) The revenue deposited into the mechanism will be used exclusively to finance closure and/or postclosure maintenance and/or corrective action, as applicable, and will remain inviolate against all other claims, including any claims by the operator, the operator's governing body, and the creditors of the operator and its governing body;

(3) The mechanism authorizes the CIWMB to direct the provider of financial assurance to pay closure or postclosure maintenance or corrective action costs if the CIWMB determines that the operator has failed or is failing to perform closure or postclosure maintenance or corrective action activities, as applicable, as covered by the mechanism;

(4) The financial operations of the provider of the financial assurance are regulated by a federal or state agency, or the provider is otherwise certain to maintain and disburse the assured funds properly;

(5) If the provider of financial assurance has authority to invest revenue deposited into the mechanism, the provider shall exercise investment discretion similar to a trustee; and

(6) The mechanism meets other requirements that the CIWMB determines are needed to ensure that the assured amount of funds shall be available in a timely manner for closure and/or postclosure maintenance and/or corrective action.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43103 and 43500–43610, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22242. CIWMB—Government Securities. (T14:§18235, 18286)

(a) The terms of issuance of government securities shall specify that proceeds from the sale of the securities shall be deposited into a financial assurance mechanism that meets the requirements of §(b).

(b) The securities shall have been issued and the proceeds already deposited into the financial assurance mechanism that provides equivalent protection to a trust fund by meeting the following requirements:

(1) Proceeds from the sale of securities shall be used exclusively and only as applicable, to:

(A) Pay costs of closure activities identified in the most recently approved closure plan; and/or

(B) Pay costs of postclosure maintenance identified in the most recently approved postclosure maintenance plan; and/or

(C) Pay claims by third parties for bodily injury and property damage caused by accidental occurrences; and/or

(D) Pay costs of corrective action activities in the most recently approved corrective action plan; and

(E) All funds shall remain inviolate against all other claims, including any claims by the operator, the operator's governing body, and the creditors of the operator and its governing body;

(2) The financial operations of the provider of the financial assurance shall be regulated by a federal or state agency, or the provider shall be otherwise certain to maintain and disburse the assured funds properly;

(3) If the provider of financial assurance has authority to invest revenue deposited into the mechanism, the provider shall exercise investment discretion similar to a trustee; and

(4) The mechanism meets other reasonable requirements that the CIWMB determines are necessary to ensure that the assured funds shall be available in a timely manner.

NOTE: Authority cited: Sections 40502 and 43040, Public Resources Code. Reference: Section 43040, 43103 and 43500–43610, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22243. CIWMB—Letter of Credit.

(a) The institution issuing a letter of credit shall have the authority to issue letters of credit and its letter–of–credit operations shall be regulated and examined by a federal or state agency.

(b) The letter of credit shall be worded and completed, with appropriate amendments to identify that the mechanism is utilized for closure and/or postclosure maintenance and/or corrective action costs, as specified by form CIWMB 101 (12/01) which is incorporated by reference. The original mechanism must be submitted to the CIWMB.

(c) The letter of credit shall be accompanied by a letter from the operator identifying the number, issuing institution, and date of issuance of the letter of credit and the name, address, solid waste information system number, and amount of funds assured by the letter of credit for closure and/or postclosure maintenance and/or corrective action for each solid waste landfill. If the letter of credit is for more than one coverage requirement and/or for more than one solid waste landfill, appropriate sublimits must also be clearly identified within the letter of credit.

(d) The letter of credit shall be irrevocable and shall be issued for a period of at least one year, except as noted in ¶(d)(2).

(1) The letter of credit shall provide that the expiration date will be automatically extended for a period of at least one year, unless the issuing institution provides notice of termination as specified in §22231.

(2) If an operator fails to demonstrate alternate coverage within 60 days after receiving a notice of termination, the CIWMB may allow an issuing institution an extension to the term of a letter of credit for a period of time shorter than one year.

(e) The issuing institution shall become liable under the terms of the letter of credit if the CIWMB determines that the operator has failed or is failing to perform closure or postclosure maintenance or corrective action activities as guaranteed by the mechanism.

(f) The operator may cancel the letter of credit only if alternate financial assurance is substituted as specified in §22227 or if the operator is

released from the requirements of this section in accordance with §22235.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43103 and 43500–43610, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading and subsection (b) filed 2–25–2008; operative 2–25–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 22244. CIWMB—Surety Bond.

(a) The status of the surety company issuing a surety bond shall be among those listed as holding certificates of authority as acceptable sureties on Federal bonds and as acceptable reinsuring companies in Circular 570 of the U.S. Department of the Treasury which is published on July 1 of each year in the Federal Register.

(b) The penal sum of the bond must be in an amount at least equal to the closure and/or postclosure and/or the corrective action cost estimate, except as provided in §22228.

(c) The surety bond shall be worded and completed as specified by one of the following forms, which shall be supplied by the CIWMB. The original mechanism must be submitted to the CIWMB:

(1) Form CIWMB 102(a) (12/01) which is incorporated by reference, for a surety bond guaranteeing performance of closure; or

(2) Form CIWMB 102(b) (12/01) which is incorporated by reference, for a surety bond guaranteeing performance of postclosure maintenance; or

(3) Form CIWMB 102(c) (12/01) which is incorporated by reference, for a surety bond guaranteeing performance of reasonably foreseeable and/or known corrective action activities; or

(4) Form CIWMB 103(a) (12/01) which is incorporated by reference, for a surety bond guaranteeing payment of closure costs; or

(5) Form CIWMB 103(b) (12/01) which is incorporated by reference, for a surety bond guaranteeing payment of postclosure maintenance costs; or

(6) Form CIWMB 103(c) (12/01) which is incorporated by reference, for a surety bond guaranteeing payment of reasonably foreseeable and/or known corrective action costs.

(d) The surety company shall become liable under the terms of the bond if the CIWMB determines that the operator has failed or is failing to perform closure or postclosure maintenance or corrective action as guaranteed by the bond.

(e) Payments made under the terms of the bond will be deposited by the surety directly into the depository trust fund, as identified in §22237.

(f) The operator may cancel the bond only if alternate financial assurance is substituted as specified in §22227 or if the operator is no longer required to demonstrate financial responsibility in accordance with §22235.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43103 and 43500–43610, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Amendment of section heading and subsections (c)(1)–(2) and (c)(4)–(6) filed 2–25–2008; operative 2–25–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 22245. CIWMB—Pledge of Revenue. (T14:§18290)

(a) A pledge of revenue shall consist of a resolution by the governing body of the operator or provider of financial assurance authorizing an agreement between the operator or provider of financial assurance and the CIWMB to establish the pledge. The resolution and the agreement shall remain effective continuously throughout the period in which the pledge of revenue is used to satisfy the requirements of Subchapter 2 of this Chapter.

(b) The agreement establishing the pledge of revenue shall contain the following items:

(1) The types and sources of pledged revenue;

(2) The amount of revenue pledged from each source;

(3) The period of time that each source of revenue is pledged to be available; and

(4) The solid waste landfill(s) and the current postclosure and/or corrective action cost estimate(s) that are covered by the pledge.

(5) The authorization for the CIWMB to direct payment for postclosure maintenance and/or corrective action if the CIWMB determines that the operator has failed or is failing to perform postclosure maintenance or corrective action activities covered by the mechanism.

(c) An operator or provider of financial assurance shall pledge the following types of revenue that the operator or provider of financial assurance controls and that will be available in a timely manner to pay for postclosure maintenance or corrective action:

(1) User fees, rents, or other guaranteed revenue from existing or planned solid waste facilities;

(2) Tax increases within statutory limitations; and/or

(3) Other guaranteed revenues that are acceptable to the CIWMB.

(d) If an operator or provider of financial assurance ceases at any time to retain control of its ability to allocate any pledged revenue to pay postclosure maintenance or corrective action costs, the operator or provider of financial assurance shall notify the CIWMB and shall obtain alternate coverage within 60 days after control lapses.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43103 and 43500–43610, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22246. CIWMB—Financial Means Test.

(a) To pass the financial means test, an operator or a guarantor shall be a private entity and shall meet the criteria of ¶(d), ¶(e), ¶(f) or ¶(g) based on independently audited year–end financial statements for the latest completed fiscal year.

(b) The phrase "amount of liability coverage to be demonstrated by the test" as used in ¶(d) and ¶(e) refers to the amount of liability coverage required by §22216.

(c) The phrase "current cost estimates covered by the test" as used in ¶(f) and ¶(g) refers to the current postclosure cost estimate required by ¶(h)(1) to be shown in paragraphs 1 and 2 of the letter from the chief financial officer.

(d) To cover operating liability the operator or guarantor shall have:

(1) Net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by the test; and

(2) Tangible net worth of at least $15 million; and

(3) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the amount of liability coverage to be demonstrated by the test.

(e) To cover operating liability the operator or guarantor shall have:

(1) A current rating for its most recent bond issuance of AAA, AA, A, or BBB issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

(2) Tangible net worth of at least six times the amount of liability coverage to be demonstrated by the test; and

(3) Tangible net worth of at least $15 million; and

(4) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the amount of liability coverage to be demonstrated by the test.

(f) To cover postclosure maintenance the operator or guarantor shall have:

(1) Two of the following three ratios: a ratio of total liabilities to net worth that is less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities that is greater than 0.1; and a ratio of current assets to current liabilities that is greater than 1.5; and

(2) Net working capital and tangible net worth each at least six times the sum of the current cost estimate covered by the test; and

(3) Tangible net worth of at least $15 million; and

(4) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the sum of the current cost estimate covered by the test.

(g) To cover postclosure maintenance the operator or guarantor shall have:

(1) A current rating for its most recent bond issuance of AAA, AA, A, or BBB issued by Standard and Poor or Aaa, Aa, A, or Baa as issued by Moody's; and

(2) Tangible net worth at least six times the sum of the current cost estimate covered by the test, and

(3) Tangible net worth of at least $15 million and

(4) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the sum of the current cost estimate covered by the test.

(h) Within 90 days after the close of each financial reporting year, the operator or the guarantor shall submit the following items to the CIWMB and, in the case of a guarantor, to the operator;

(1) A letter on the operator's or guarantor's official letterhead stationary that is worded and completed as specified in form CIWMB 104 (11/06) which contains an original signature of the operator's or guarantor's chief financial officer.

(A) An operator or guarantor shall use form CIWMB 104 (11/06) to demonstrate or guarantee financial responsibility for liability coverage only or postclosure costs only or both liability and postclosure maintenance. If the operator or guarantor is using a similar financial means test to demonstrate liability coverage and/or postclosure maintenance for facilities in other states, the operator shall list those out-of-state facilities, as well as the California facilities on this test.

(2) A copy of an independent certified public accountant's report on examination of the operator's or guarantor's financial statements for the latest completed fiscal year, with a copy of the operator's or guarantor's financial statements for the latest completed fiscal year.

(3) A letter from an independent certified public accountant stating that:

(A) He or she has compared the data in the letter in ¶(h)(1), from the chief financial officer specified as having been derived from the financial statements for the latest completed fiscal year of the operator or the guarantor, with the amounts in the financial statements; and

(B) Based on the comparison, no matters came to his or her attention that caused him or her to believe that the specified data should be adjusted.

(4) If the operator or the guarantor is required to make such a filing, a copy of the operator's or guarantor's most recent form 10-K filed with the U.S. Securities and Exchange Commission.

(i) The CIWMB may require updated financial statements at any time from the operator or guarantor. If the CIWMB finds that the operator or guarantor no longer meets the financial means test requirements of ¶¶(d),(e),(f), or (g) based on such reports or other information, including but not limited to, credit reports and reports from other state agencies, the operator shall obtain alternate coverage within 60 days after receiving the notification of such a finding.

(j) If, at the time of its annual filing, an operator using the financial means test fails to meet the requirements of the financial means test under ¶¶(d),(e),(f), or (g), the operator shall obtain alternate coverage within 60 days after the determination of such failure.

(k) If the operator fails to obtain alternate coverage within the times specified in ¶¶(i) or (j), the operator shall notify the CIWMB by certified mail within 10 days of such failure.

NOTE: Authority cited: Sections 40502 and 43040, Public Resources Code. Reference: Sections 43040 and 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

2. Amendment of section heading and subsections (d)(2), (e)(3), (f)(3), (g)(3), (h)(1) and (h)(1)(A) filed 2-25-2008; operative 2-25-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 22247. CIWMB—Guarantee.

(a) The guarantor shall be:

(1) A parent corporation of the operator;

(2) A firm whose parent corporation is also the parent corporation of the operator; or

(3) A firm engaged in a substantial business relationship with the operator and issuing the guarantee as an act incident to that business relationship.

(b) The guarantor shall meet the requirements of the financial means test under §22246 of this Article based on the guarantor's audited year-end financial statements.

(c) The guarantee shall be worded and completed as specified by form CIWMB 105 (12/01), which is incorporated by reference.

(d) The terms of the guarantee shall specify that if:

(1) The operator fails or is failing to perform postclosure maintenance in accordance with the applicable approved postclosure maintenance plan when required to do so, the guarantor shall either:

(A) Perform postclosure maintenance in accordance with the applicable approved postclosure maintenance plan; or

(B) Establish and fund a trust fund, as specified in §22240, in the name of the operator in the amount of the applicable current postclosure maintenance cost estimate covered by the guarantee.

(2) The operator fails to satisfy a judgment or an award for bodily injury and property damage to third parties caused by accidental occurrences, or fails to pay an amount agreed in settlement of a claim arising from or alleged to arise from such injury and damage, the guarantor shall satisfy such judgment, award, or settlement agreement up to the limits of the guarantee.

(e) If the guarantor fails to meet the requirements of the financial means test under §22246 or wishes to terminate the guarantee, the guarantor shall send notice of such failure or termination by certified mail to the operator and the CIWMB within 90 days after the end of that financial reporting year. The guarantee shall terminate no less than 60 days after the date that the operator and the CIWMB have received the notice of such failure or termination, as evidenced by the return receipts. The guarantor shall establish alternate coverage as specified in §22228 on behalf of the operator within 60 days after such notice, unless the operator has done so.

(f) The CIWMB may require updated financial statements at any time from a guarantor. If the CIWMB finds, on the basis of such reports or information from other sources, including but not limited to, credit reports and reports from other state agencies, that the guarantor no longer meets the financial means test requirements of §22246 or any requirements of §22247, the CIWMB shall notify the guarantor and operator of such finding by certified mail. The guarantor shall establish alternate coverage as specified in §22228 on behalf of the operator within 60 days after such notice, unless the operator has done so.

NOTE: Authority cited: Sections 40502 and 43040, Public Resources Code. Reference: Sections 43040, 43103 and 43500-43610, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

2. Amendment of section heading and subsection (c) filed 2-25-2008; operative 2-25-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 22248. CIWMB—Closure and/or Postclosure Maintenance and/or Reasonably Foreseeable Corrective Action Insurance.

(a) The issuer of the insurance policy shall be an insurer, including a captive insurance company that, at a minimum, is licensed by the California Department of Insurance to transact the business of insurance in the State of California as an admitted carrier.

(b) If coverage is not available as specified in ¶(a), the operator may seek coverage from an insurer, including a captive insurance company that, at a minimum, shall be eligible to provide insurance as an excess or surplus lines insurer in California.

(c) If coverage is obtained as described in ¶(b), the insurance shall be transacted by and through a surplus lines broker currently licensed under the regulations of the California Department of Insurance [California Insurance Code (CIC), Division 1, Part 2, Chapter 6] and upon the terms and conditions prescribed by the California Department of Insurance.

(d) The CIWMB or its designee may object to the use of any insurer at anytime, whether before or after placement of coverage based on information obtained from, but not limited to, the Surplus Line Association of California, Best's Insurance Reports, and/or the Non- Admitted Insurers Quarterly List.

(e) The closure or postclosure maintenance insurance or reasonably foreseeable corrective action policy shall guarantee that funds will be available to close the solid waste landfill whenever closure occurs or to provide postclosure maintenance for the solid waste landfill whenever the postclosure maintenance period begins or provide for corrective action for the solid waste landfill if corrective action is deemed necessary, whichever is applicable. The policy shall also guarantee that once the closure or postclosure maintenance or corrective action program begins, the insurer will be responsible for the paying out of funds to the operator or person authorized to conduct closure or postclosure maintenance or corrective action, up to an amount equal to the face amount of the policy.

(f) The insurance policy shall be issued for a face amount at least equal to the most recently approved closure and/or postclosure maintenance and/or reasonably foreseeable corrective action cost estimate(s) whichever is applicable, unless the policy is being used in combination with another acceptable mechanism. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability may be lowered by the amount of the payments.

(g) An operator, or any other person authorized to conduct closure or postclosure maintenance or corrective action, may receive reimbursements for closure or postclosure maintenance or corrective action expenditures, which ever is applicable. Requests for reimbursements will be granted by the insurer only if the remaining value of the policy is sufficient to cover the remaining costs of closure or postclosure maintenance or corrective action and if the expenditures have been reviewed and approved in writing by the CIWMB or its designee.

(h) Notwithstanding any other provisions of this section, if either partial or complete closure, postclosure maintenance or corrective action activities are ordered by the CIWMB or its designee as a result of failure by the operator or person authorized to conduct such activities, the policy shall also guarantee that the insurer shall be responsible for paying out funds to the CIWMB for deposit into a special account established by the CIWMB for closure, postclosure maintenance or corrective action activities of the facility. The policy shall further guarantee that the insurer shall, without delay, pay to the CIWMB the amount the CIWMB requests, up to an amount equal to the face amount of the policy. CIWMB requests for payment will be based on current estimated expenses as determined by the CIWMB for closure, postclosure maintenance or corrective action activities. Any payments made by the insurer that exceed the actual expenses incurred in performing the insured activity will be repaid to the insurer at the completion of the insured activity.

(i) Each policy shall contain a provision allowing assignment of the policy to a successor operator. Such assignment may be conditional upon consent of the insurer, provided that such consent is not unreasonably refused.

(j) The insurance policy must provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the owner and operator, and the CIWMB 120 days in advance of cancellation. If the insurer cancels the policy, the owner or operator must obtain alternate financial assurance as specified in §22228.

(k) For insurance policies providing coverage for postclosure maintenance, commencing on the date that liability to make payments pursuant to the policy accrues, the insurer shall thereafter annually increase the face amount of the policy. Such increases must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.

(l) The operator may cancel the insurance policy only if alternate financial assurance is substituted as specified in §22227, or if the operator is no longer required to demonstrate financial responsibility in accordance with the requirements of Subchapter 2 of this Chapter.

(m) Each closure and/or postclosure maintenance and/or reasonably foreseeable corrective action insurance policy shall be evidenced by a certificate of insurance established by using form CIWMB 106 (08/2001), which is incorporated by reference. Each certificate of insurance shall contain the insurer's warranty that the policy conforms in all respects with the requirements of this Subdivision, as applicable, and as such regulations were constituted on the date the policy is certified to on an annual basis. In addition, the insurer shall agree that any provision of the policy inconsistent with these regulations is amended to eliminate such inconsistency by submittal of the certification for closure and/or postclosure maintenance and/or reasonably foreseeable corrective action insurance.

NOTE: Authority cited: Section 40502, Public Resources Code. Reference: Sections 43103 and 43500-43610, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).
2. Amendment of subsections (a), (b) and (e), new subsection (h), subsection relettering, and amendment of newly designated subsection (m) filed 5-9-2002; operative 6-8-2002 (Register 2002, No. 19).
3. Amendment of section heading and subsection (j) filed 2-25-2008; operative 2-25-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 22249. CIWMB—Local Government Financial Test.

(a) To pass the local government financial test, and to demonstrate financial responsibility for postclosure maintenance and/or corrective action costs, an operator or a guarantor shall be a local government agency and shall meet the criteria of ¶¶ (e), (f), (i) and (j) based on financial statements prepared in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant.

(b) A local government is not eligible to assure its obligations under §22249 if it:

(1) Is currently in default on any outstanding general obligation bonds, or

(2) Has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's, or

(3) Has operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years, or

(4) Receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant auditing its financial statement as required by ¶(a).

(c) The phrase "current postclosure maintenance cost estimates covered by the test" refers to the current postclosure maintenance cost estimate required by ¶(j)(1) to be shown in paragraphs 1 and 2 of the letter from the chief financial officer.

(d) The phrase "current corrective action cost estimates covered by the test" refers to the current corrective action cost estimate required by ¶(j)(1) to be shown in paragraphs 1 and 2 of the letter from the chief financial officer.

(e) The total amount of postclosure maintenance costs and corrective action costs which can be assured under this local government financial test is determined as follows:

(1) If the local government operator or guarantor does not assure other environmental obligations through a financial test, it may assure postclo-

sure maintenance costs and/or corrective action costs that equal up to 43 percent of the local government's total annual revenue.

(2) If the local government operator or guarantor assures other environmental obligations through a financial test, including but not limited to those associated with underground injection control wells, petroleum underground storage tank facilities, PCB storage facilities, and hazardous waste treatment, storage, and disposal facilities, it must add those costs to the postclosure maintenance costs and/or corrective action costs it seeks to assure. The total that may be assured must not exceed 43 percent of the local government's or guarantor's total annual revenue.

(3) The operator or guarantor must obtain an alternate financial assurance instrument for those costs that exceed the limits set in (1) and (2).

(f) The operator or guarantor shall meet the criteria of either ¶(g) or (h) based on the operator's or guarantor's most recent audited annual financial statements prepared in conformity with Generally Accepted Accounting Principles for governments.

(g) The operator or guarantor shall satisfy each of the following financial ratios based on the operator's or guarantor's most recent audited annual financial statements prepared in conformity with Generally Accepted Accounting Principles for governments:

(1) Liquidity ratio: a ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and

(2) Debt service ratio: a ratio of annual debt service to total expenditures less than or equal to 0.20; or

(h) An operator or guarantor with outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee must have such bonds with current investment grade rating as follows:

(1) Aaa, Aa, A or Baa, as issued by Moody's on all such general obligation bonds; or

(2) AAA, AA, A, or BBB, as issued by Standard and Poor's on all such general obligation bonds.

(i) The operator or guarantor shall provide public notice of the local government's assured obligations by placing a reference to the postclosure maintenance costs and/or corrective action costs assured through the financial test into its next comprehensive annual financial report (CAFR). If timing does not permit the reference to be incorporated into the most recently issued CAFR or budget prior to the first year the financial test is used to assure local government solid waste facility obligations, the reference may instead by placed in the operating record until issuance of the next available CAFR. The operator shall certify that the reference to the postclosure maintenance costs and/or corrective action costs assured through the financial test is provided. The operator's certification shall be submitted with the chief financial officer letter as specified in ¶(j)(2).

(1) For postclosure maintenance costs, conformance with Government Accounting Standards Board (GASB) Statement 18 assures compliance with this public notice requirement.

(2) The following, including the GASB requirements, shall be disclosed:

(A) The nature and source of requirements for those obligations assured by the local government financial test including postclosure maintenance costs and/or corrective action costs; and

(B) Postclosure maintenance costs recognized at the balance sheet date; and

(C) Estimated postclosure maintenance costs remaining to be recognized; and

(D) Percentage of landfill capacity used to date, as of the end of the latest completed fiscal year; and

(E) Remaining landfill capacity reported in cubic yards or tons as of the end of the latest completed fiscal year; and

(F) Estimated remaining useful landfill life in years; and

(G) Corrective action costs. The reference shall be placed in the CAFR not later than 120 days after the corrective action remedy has been selected as required under Article 1, Subchapter 3, Chapter 3 (§20380 et seq.).

(j) Within 180 days after the close of each financial reporting year, the operator or guarantor shall submit the following items to the CIWMB and, in the case of a guarantor also, to the operator;

(1) A letter on the local government's letterhead stationary that is worded and completed as specified in Form CIWMB 112 (7/98), which is incorporated by reference, which contains an original signature of the local government's chief financial officer. An operator or guarantor shall use Form CIWMB 112 (7/98) to demonstrate or guarantee financial responsibility for postclosure maintenance costs and/or corrective action costs.

(A) If the operator or guarantor is using a similar financial test to demonstrate postclosure maintenance costs and/or corrective action costs for other environmental obligations including but not limited to those associated with underground injection control wells, petroleum underground storage tank facilities, PCB storage facilities, and hazardous waste treatment, storage, and disposal facilities, the operator or guarantor shall list those facilities, as well as the solid waste facility obligations it seeks to assure.

(2) A letter from the local government's treasurer or auditor–controller certifying the relative size (43%) threshold as specified in ¶(e), and the public notice requirement as specified in ¶(i) have been satisfied.

(3) A copy of an independent certified public accountant's report on examination of the operator's or guarantor's financial statements for the latest completed fiscal year, with a copy of the operator's or guarantor's financial statements for the latest completed fiscal year.

(A) An unqualified opinion of the independent certified public accountant is required.

(B) Local governments that have audits conducted only once every two years due to state law, may use the latest annual statement, audited or unaudited, provided that the most recent audit resulted in an unqualified opinion from the auditor.

(4) A letter from an independent certified public accountant that performed the audit:

(A) Stating that he or she has reviewed the letter required by ¶(j)(1) from the chief financial officer including data derived from the financial statements for the latest completed fiscal year of the operator or the guarantor, and compared the data with the amounts in the financial statements; and

(B) Describing the procedures performed and related findings, including whether or not there were discrepancies found in the comparison, based on an agreed–upon procedures engagement performed in accordance with American Institute of Certified Public Accountants, Inc.'s (AICPA's) Statement on Auditing Standards No. 75, Engagements to Apply Agreed–Upon Procedures to Specified Elements, Accounts or Items of a Financial Statement.

(5) A copy of the comprehensive annual financial report (CAFR) used to comply with ¶(i) or certification by the local government's treasurer or auditor–controller that the requirements of General Accounting Standards Board Statement 18 have been met.

(6) A copy of the bond rating on the bond rating service's letterhead stationary.

(k) The CIWMB may require updated financial statements at any time from the operator or guarantor. If the CIWMB finds that the operator or guarantor no longer meets the local government financial test requirements of ¶¶(g) or (h), the operator shall obtain alternate coverage within 60 days after receiving the notification of such a finding.

(*l*) If, when preparing its annual update, an operator using the local government financial test fails to meet the requirements of the financial test under ¶¶(g) or (h), the operator shall obtain alternate coverage within 210 days after the close of the financial reporting year.

(m) If the operator fails to obtain alternate coverage within the times specified in ¶¶(k) or (*l*), the operator shall notify the CIWMB by certified mail within 10 business days of such failure.

(n) A local government financial test may be combined with another payment mechanism to assure the amount of required coverage specified in §§22211 and 22221 of Subchapter 2.

NOTE: Authority Cited: Sections 40502 and 43601.5, Public Resources Code. Reference: Sections 43500–43610.1, Public Resources Code; Part 258.74(f) and (h), Title 40, Code of Federal Regulations.

HISTORY

1. New section filed 11–23–98; operative 12–23–98 (Register 98, No. 48).
2. Amendment filed 2–25–2008; operative 2–25–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 22249.5. CIWMB—Local Government Guarantee.

(a) The guarantor shall be a local government which meets the requirements of the Local Government Financial Test under §22249 of this Article based on the guarantor's audited year–end financial statements.

(b) The guarantee shall be worded and completed as specified by form CIWMB 113 (7/98), which is incorporated by reference.

(c) When the guarantee specifies coverage for postclosure maintenance costs, the terms shall also specify:

(1) If the operator fails to perform postclosure maintenance in accordance with the applicable approved postclosure maintenance plan when required to do so, the guarantor shall either:

(A) Perform, or pay a third party to perform, postclosure maintenance in accordance with the applicable approved postclosure maintenance plan; or

(B) Establish and fund a trust fund as specified in §22240 of this Article, in the name of the operator in the amount of the applicable current postclosure maintenance cost estimate covered by the guarantee; and/or

(d) When the guarantee specifies coverage for corrective action costs, the terms shall also specify:

(1) If the operator fails to perform corrective action in accordance with the applicable approved corrective action plan when required to do so, the guarantor shall either:

(A) Perform, or pay a third party to perform, corrective action in accordance with the applicable approved corrective action plan; or

(B) Establish and fund a trust fund as specified in §22240 of this Article, in the name of the operator in the amount of the applicable current corrective action cost estimate covered by the guarantee; and/or

(e) The guarantee will remain in force unless the guarantor fails to meet the requirements of §§22249 and/or 22249.5 of this Article, or wishes to terminate the guarantee. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the operator and the CIWMB, as evidenced by return receipts.

(1) The guarantor shall send a notice of cancellation by certified mail to the operator, and the CIWMB, within 180 days after the end of that financial reporting year. The guarantee shall terminate no less than 120 days after the date that the operator and the CIWMB received the notice of cancellation, as evidenced by the return receipts.

(2) If the guarantee is cancelled, the operator shall establish alternate assurance as specified in §22228 of Article 1 of this Subchapter within 60 days after such notice.

(3) If the operator fails to provide alternate financial assurance:

(A) The operator shall send notice of such failure by certified mail to the guarantor, and the CIWMB, within the same 60 day period; and

(B) The guarantor must provide alternate assurance as specified in §22228 of Article 1 of this Subchapter within 60 days after the date of the operator's notice.

(f) The CIWMB may require updated financial statements at any time from a guarantor. If the CIWMB finds that the guarantor no longer meets the local government financial test or guarantee requirements of §§22249 and/or 22249.5 of this Article, the CIWMB shall notify the guarantor and operator of such finding by certified mail. If the CIWMB notifies the guarantor and the operator that the guarantee is no longer acceptable, the operator and guarantor shall comply with §22249.5(e)(2) and (3) of this Article.

(g) Only a guarantee for payment, rather than performance of work, may be combined with another payment mechanism to assure the amount of required coverage specified in §§22206, 22211, 22216, and/or 22221 of Subchapter 2.

NOTE: Authority Cited: Sections 40502 and 43601.5, Public Resources Code. Reference: Sections 43500–43610.1, Public Resources Code; Part 258.74(f) and (h), Title 40, Code of Federal Regulations.

HISTORY

1. New section filed 11–23–98; operative 12–23–98 (Register 98, No. 48).
2. Editorial correction of subsection (e)(1) (Register 2008, No. 9).
3. Amendment filed 2–25–2008; operative 2–25–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 22250. CIWMB—Federal Certification. (T14:§18292)

(a) A federal entity which is responsible for closure or postclosure maintenance of one or more solid waste landfills located in California may, in lieu of using the other financial mechanisms provided in this Article, provide a Federal Certification for each solid waste landfill, in accordance with this section.

(b) Each Federal Certification shall include the following:

(1) A commitment by the federal entity to make a timely request for the funds needed to complete the closure and postclosure maintenance activities described in the most recently approved final closure and postclosure maintenance plans in accordance with Executive Order 12088 dated October 13, 1978 and OMB Circular A–106 dated December 31, 1974, which are incorporated by reference, or any pertinent amendments to those requirements;

(2) Copies of the initial closure and postclosure maintenance cost estimates and any amendments thereto, prepared pursuant to §21820 and §21840, respectively; and

(3) A commitment by the federal entity not to restructure the closure and postclosure funding in a manner that would interfere with timely completion of closure or postclosure maintenance activities.

(c) Should Congress fail to appropriate the necessary funding for closure and postclosure maintenance of a disposal facility, the federal entity shall advise the CIWMB within 90 days of such failure, and shall provide to the CIWMB, documentation of all measures it will undertake to ensure that closure and postclosure activities are completed in accordance with the most recently approved closure and postclosure maintenance plans.

(d) Nothing in this section shall be deemed to require any federal entity, or employees, agents, or representative thereof, to violate the federal Anti–Deficiency Act, 31 U.S.C. §1341.

(e) Each federal entity owning or operating a solid waste landfill in California on or after January 1, 1989, and choosing to provide assurance by using the Federal Certification, shall file the necessary documents with the CIWMB not later than 120 days after the effective date of these amendments or, for new disposal facilities, at the time of application for a solid waste facility permit.

(f) A federal entity may choose to act as a provider of financial assurance for closure or postclosure maintenance on behalf of private or other entities operating solid waste landfills, if either:

(1) The solid waste landfill is located on federal land; or

(2) The operator operates or manages the solid waste landfill pursuant to a contract with the federal entity or an applicable subcontract.

NOTE: Authority Cited: Section 40502, Public Resources Code. Reference: Sections 43103 and 43500 through 43610, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22251. CIWMB—Liability Insurance.

(a) The issuer of the insurance policy shall be an insurer that, at a minimum, is licensed by the California Department of Insurance to transact the business of insurance in the State of California as an admitted carrier.

(b) If coverage is not available as specified in ¶(a), the operator may seek coverage by an insurer which, at a minimum, shall be eligible to provide insurance as an excess or surplus lines insurer in California.

(c) If coverage is obtained as described in ¶(b), the insurance shall be transacted by and through a surplus line broker currently licensed under the regulations of the California Department of Insurance and upon the

terms and conditions prescribed in the California Insurance Code (CIC), Division 1, Part 2, Chapter 6.

(d) The CIWMB or its designee may object to the use of any insurer at anytime, whether before or after placement of coverage based on information obtained from, but not limited to, the Surplus Line Association of California, Best's Insurance Reports, and/or the Non- Admitted Insurers Quarterly List.

(e) Each insurance policy shall be either:

(1) Evidenced by a certificate of liability insurance established by using form CIWMB 107 (12/01), which is incorporated by reference; or

(2) Amended and evidenced by a liability insurance endorsement established by using form CIWMB 108 (12/01), which is incorporated by reference.

NOTE: Authority cited: Sections 40502 and 43040, Public Resources Code. Reference: Sections 43040 and 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).
2. Amendment of subsections (e)(1)-(2) filed 2-25-2008; operative 2-25-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 22252. CIWMB—Self-Insurance and Risk Management.

(a) To use the self-insurance and risk management mechanism an operator shall:

(1) Be a public entity;

(2) Be self-insured;

(3) Employ a risk manager;

(4) Have an active safety and loss prevention program that seeks to minimize the frequency and magnitude of third party damages caused by accidental occurrences and other self-insured losses;

(5) Have procedures for and a recent history of timely investigation and resolution of any claims for third party damages caused by accidental occurrences and other self-insured losses; and

(6) Satisfy any other reasonable conditions that the CIWMB determines are needed to ensure that the assured amount of funds shall be available in a timely manner.

(b) This coverage shall be demonstrated by using form CIWMB 109 (12/01), which is incorporated by reference.

NOTE: Authority cited: Sections 40502 and 43040, Public Resources Code. Reference: Sections 43040 and 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).
2. Amendment of section heading and subsection (b) filed 2-25-2008; operative 2-25-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 22253. CIWMB—Insurance and Environmental Fund.

(a) To be eligible to use this mechanism to demonstrate financial responsibility for compensating third parties for bodily injury and property damage, the operator shall fulfill the requirements of ¶¶(a) through (e) of this section no later than July 2, 1992.

(b) The operator shall submit a signed certification to the CIWMB on form CIWMB 110 (4/96), which is incorporated by reference; and

(c) The operator shall submit certification of coverage to demonstrate the establishment and maintenance of comprehensive general liability insurance coverage with limits in at least the amounts specified in Article 3 of Subchapter 2 of this Chapter. This insurance must conform to the requirements of §22251(a – d) and/or §22252(a); and

(d) The operator shall demonstrate the establishment of an environmental liability fund, which shall be fully funded, as described, before July 2, 1997. This means that the operator shall make the initial payment as described in ¶(d)(3) by July 2, 1992 and subsequent payments as described in section ¶(d)(4) on July 1st of the following years: 1993, 1994, 1995, 1996, and 1997.

(1) The environmental liability fund shall have a trustee that is authorized to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(2) The environmental liability fund shall be established by using form CIWMB 111 (4/96), which is incorporated by reference.

(3) The funding of the environmental liability fund shall be initiated with a payment of $200,000 or a payment that is at least equal to the applicable aggregate liability coverage amount specified in Article 3 of Subchapter 2 of this Chapter, divided by 5, which is the maximum number of years in the pay-in period.

(4) On each anniversary date of July 1, the minimum payment shall be determined by this formula:

$$\text{Minimum Payment} = \frac{AC - CV}{Y + 1}$$

where AC is the aggregate coverage required, CV is the current value of the trust fund and Y is the number of years remaining in the pay-in period.

(5) The operator may accelerate payments into the environmental liability fund. However, the value of the environmental liability fund shall be maintained at no less than the value that the environmental fund would have, if payments were made as specified in ¶(d)(3) and ¶(d)(4).

(6) If the value of the environmental liability fund becomes greater than the total amount of the applicable aggregate liability coverage, the operator may request in writing that the CIWMB authorize the release of the excess funds. The CIWMB shall review the request within 90 days of receipt of the request. If any excess funds are verified, the CIWMB shall instruct the trustee to release the funds.

(e) The operator may substitute any alternate financial assurance mechanism(s), as identified in §22227, for the Insurance and Environmental Fund mechanism.

NOTE: Authority cited: Sections 40502 and 43040, Public Resources Code. Reference: Sections 43040 and 43103, Public Resources Code.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).
2. Amendment of section heading and section filed 2-25-2008; operative 2-25-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

§ 22254. CIWMB—State Approved Mechanism. (T14:§17258.74)

(a) An operator may satisfy the requirements of this Chapter by obtaining any other mechanism that meets the following criteria, and that is approved by the CIWMB.

(1) The financial assurance mechanisms must ensure that the amount of funds assured is sufficient to cover the costs assured when needed;

(2) The financial assurance mechanisms must ensure that funds will be available in a timely fashion when needed;

(3) The financial assurance mechanism(s) must be obtained by the operator before the first waste is received at a new facility and before any other financial mechanism is cancelled at existing facilities. The financial mechanism must be maintained until the operator is released from the financial assurance requirements under this Chapter.

(4) The financial assurance mechanisms must be legally valid, binding and enforceable under State and Federal law.

NOTE: Authority cited: Sections 40502 and 40508, Public Resources Code. Reference: Sections 40508 and 43103, Public Resources Code; and Section 258.74, Title 40, Code of Federal Regulations.

HISTORY

1. New section filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

Subchapter 4. Financial Assurances Enforcement Procedures

Article 1. Solid Waste Facilities

§ 22270. Scope and Applicability.

All operators of disposal facilities shall be subject to the requirements of this article, except state and federal operators.

NOTE: Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code. Reference: Sections 43040, 43500 through 43610.1, Public Resources Code; and Title 40 Code of Federal Regulations, Section 258.70.

HISTORY

1. New division 2, subdivision 1, chapter 6, subchapter 4, article 1 (sections 22270–22278) and section filed 6–3–97; operative 7–3–97 (Register 97, No. 23).

§ 22271. Definitions.

(a) "Degree of non–compliance" means the status of compliance of an operator with the financial assurance requirements. An operator is either: 1) partially out of compliance with the requirements ("Minor"); or 2) completely out of compliance with the requirements ("Major").

(b) "Potential for harm" means the degree to which operator's actions adversely affect the public health, safety and the environment. This potential is based on the anticipated closure date for a facility. If the anticipated closure date is:

1) 2 years or less the potential for harm is "Major."

2) more than 2 years and up to 10 years, the potential for harm is "Moderate."

3) over 10 years the potential for harm is "Minor."

NOTE: Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code. Reference: Sections 43040, 43500 through 43610.1, Public Resources Code.

HISTORY

1. New section filed 6–3–97; operative 7–3–97 (Register 97, No. 23).

§ 22272. Notice of Violation.

(a) The CIWMB shall send a written Notice of Violation to an operator violating the requirements of Articles 1, 2 and 3 of Subchapter 2 of this Chapter (commencing with section 22205).

(b) The CIWMB shall send a copy of the Notice of Violation to the respective enforcement agency.

(c) The Notice of Violation shall:

1) describe the violation which CIWMB staff believe is occurring; and

2) describe the consequences of continued failure to comply or respond.

(d) All operator shall submit a response to a Notice of Violation within 10 working days from receipt of the Notice of Violation.

(e) The CIWMB may consider all contacts with an operator as "good faith" efforts to comply with the regulations, and the CIWMB may extend the timeframe for an operator to respond and/or comply, as the CIWMB deems necessary, to assure adequate financing for closure and postclosure maintenance activities.

NOTE: Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code. Reference: Sections 43040, 43500 through 43610.1, Public Resources Code.

HISTORY

1. New section filed 6–3–97; operative 7–3–97 (Register 97, No. 23).

§ 22273. Issuance of Notice and Order and Stipulated Notice and Order.

(a) If an operator fails to respond to the Notice of Violation within the specified timeframe, the CIWMB shall draft and send a Notice and Order, as defined in Title 14, California Code of Regulations section 18304, to the operator, and notify the local enforcement agency of the enforcement action.

(b) An operator shall respond to the CIWMB with evidence of compliance, or request an alternate schedule for compliance, within 10 working days from receipt of the Notice and Order.

(c) If an operator responds to the Notice and Order by offering partial compliance immediately, and full compliance over a period of time, which is acceptable to the CIWMB, the CIWMB may enter into a Stipulated Notice and Order with the operator.

(d) If an operator fails to conform with the compliance schedule within the specified timeframe as provided in the Notice and Order or Stipulated Notice and Order, further enforcement action may be taken by the CIWMB, as specified in the Notice and Order or Stipulated Notice and Order.

NOTE: Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code. Reference: Sections 43040, 43500 through 43610.1, Public Resources Code.

HISTORY

1. New section filed 6–3–97; operative 7–3–97 (Register 97, No. 23).

§ 22274. Compliance Options.

(a) The CIWMB may consider compliance options other than imposing penalties, to assure adequate financing for closure and postclosure maintenance activities. The CIWMB may consider options that include, but are not limited to:

1) Placing restrictions on current financial assurance mechanism(s) being used by the operator such as, requiring more frequent reporting requirements.

2) Prohibiting use of current financial assurance mechanism(s) being used by the operator, and requiring the operator to establish an alternate mechanism as prescribed in section 22228 of this Title.

NOTE: Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code. Reference: Sections 43040, 43500 through 43610.1, Public Resources Code.

HISTORY

1. New section filed 6–3–97; operative 7–3–97 (Register 97, No. 23).

§ 22275. Penalty Calculations.

(a) If the CIWMB chooses to impose a penalty, the daily penalty shall equal an amount determined by the gravity–based matrix, in Table 1., using the degree of non–compliance and the potential for harm as the deciding factors, added to the economic benefit an operator receives from noncompliance with the regulations.

DEGREE OF NON–COMPLIANCE

POTENTIAL FOR HARM	*Major*	*Minor*
Major	$10,000 to $8,000	$7,999 to $5,000
Moderate	$4,999 to $2,000	$1,999 to $800
Minor	$799 to $500	$499 to $0

Table 1.

1) The economic benefit portion of a penalty, for lack of liability coverage, shall be based on a minimum annual premium for liability insurance, as identified by a CIWMB survey of the insurance industry. The premium is multiplied by the number of years an operator is out of compliance (rounded up to the next whole year if a partial year of noncompliance exists).

2) The economic benefit portion of a penalty, for lack of coverage for closure and/or postclosure maintenance costs shall be based on the current cost of a letter of credit or bond, as identified by a CIWMB survey

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of the banking industry or insurance industry, respectively. The cost for a letter of credit or bond is multiplied by the pro-rata factor for the length of time of non-compliance.

(b) Determinations of penalty amounts may be modified by the CIWMB for one or more of the following reasons:

1) Evidence that subsequent coverage has been subsequently provided, such as bank statements, letter from county treasurer verifying balance of fund, certificate demonstrating adequate coverage, etc.

2) Evidence of a payment schedule, if applicable, detailing the operator's good faith efforts has been subsequently provided, such as past deposits to the financial assurance mechanism, etc.

3) An operator's good faith efforts to comply or lack of good faith.

4) An operator's degree of willingness to comply.

5) An operator's history of compliance.

6) Other unique factors such as size of operation, threat to public health and safety and the environment.

(c) Penalties may be pursued by the CIWMB administratively or through superior court based on the following criteria:

1) If the total initial civil penalty assessment is $15,000 or less, the CIWMB may pursue penalties administratively pursuant to Public Resources Code, section 45011.

2) If the total initial civil penalty assessment exceeds $15,000, the CIWMB may pursue penalties through superior court, pursuant to Public Resources Code, section 45023.

NOTE: Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code. Reference: Sections 43040, 43500 through 43610.1, Public Resources Code.

HISTORY

1. New section filed 6-3-97; operative 7-3-97 (Register 97, No. 23).

§ 22276. Processing and Collection of Civil Penalty.

Processing and collection of civil penalties shall be made by the CIWMB as provided in Public Resources Code, Division 30, Part 5, Article 3. (commencing with section 45010).

NOTE: Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code. Reference: Sections 43040, 43500 through 43610.1, Public Resources Code.

HISTORY

1. New section filed 6-3-97; operative 7-3-97 (Register 97, No. 23).

§ 22277. Appeals Process.

Any aggrieved person may appeal a Notice and Order by the CIWMB, according to Public Resources Code, sections 45017 and 45030.

NOTE: Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code. Reference: Sections 43040, 43500 through 43610.1, Public Resources Code.

HISTORY

1. New section filed 6-3-97; operative 7-3-97 (Register 97, No. 23).

§ 22278. Continued or Recurring Violations.

(a) If an operator pays an initial penalty but fails to correct the violation pursuant to Notice and Order, or has recurring violations within a three year period from the date of the preceding Notice of Violation:

1) the CIWMB may re-initiate the enforcement process;

2) the CIWMB may pursue action to revoke a permit, according to Public Resources Code Section 43300, and/or pursue closure of the facility;

3) the CIWMB may pursue both 1 and 2 above.

NOTE: Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code. Reference: Sections 43040, 43500 through 43610.1, Public Resources Code.

HISTORY

1. New section filed 6-3-97; operative 7-3-97 (Register 97, No. 23).

Chapter 7. Special Treatment, Storage, and Disposal Units

Subchapter 1. Mining Waste Management

Article 1. SWRCB—Mining Waste Management Regulations (C15: Article 7)

[Note: Regulations in this article were promulgated by the State Water Resources Control Board (SWRCB), are administered by the appropriate Regional Water Quality Control Board (RWQCB) through the issuance of waste discharge requirements (WDRs), and are applicable to the owner or operator of a waste management unit for the treatment, storage, or disposal of mining waste (Mining Unit).]

§ 22470. SWRCB—Applicability. (C15: §2570)

(a) General—This article applies to all discharges of mining wastes. No SWRCB-promulgated parts of this subdivision except those in this article, Article 1 of Chapter 1 (i.e., §20080 *et seq.*), and such provisions of the other articles of this subdivision as specifically are referenced in this article shall apply to discharges of "mining wastes" as that term is defined in §22480. Mining Units (including surface impoundments, waste piles, and tailings ponds) which receive WDRs after November 27, 1984, shall comply with the siting and construction standards in this article. Existing active and inactive Mining Units shall comply with the siting and construction requirements of this article as required by the RWQCB. Dischargers shall submit a report of waste discharge in compliance with Article 4, Subchapter 3, Chapter 4 of this subdivision (§21710 *et seq.*), and shall have WDRs which implement the appropriate provisions of this article unless requirements are waived by the RWQCB. Requirements for new and existing Mining Units are summarized on Table 1.1 of this article. The RWQCB can impose more stringent requirements to accommodate regional and site-specific conditions.

(b) Dry Unit Liner/LCRS Exemption—A RWQCB can exempt a mining waste pile from the liners and leachate collection and removal systems required in this article if the discharger clearly demonstrates to the RWQCB that leachate will not form in or escape from that Mining Unit. The RWQCB can require extensive monitoring procedures in lieu of certain containment features. Contingency plans shall be developed and shall be implemented if monitoring indicates that the disposal procedures are inadequate.

(c) Exemptions Based On No/Little/Poor G.W.—The RWQCB can exempt a Group A or B (see §22480 of this article) Mining Unit from certain provisions of this article if a comprehensive hydrogeologic investigation demonstrates that:

(1) there are only very minor amounts of groundwater underlying the area; or

(2) the discharge is in compliance with the applicable water quality control plan; and

(3) either natural conditions or containment structures will prevent lateral hydraulic interconnection with natural geologic materials containing ground water suitable for agricultural, domestic, or municipal beneficial uses. There is no detectable vertical hydraulic interconnection between the natural geologic materials underlying the Unit and natural geologic materials containing such ground water. If the above demonstration is acceptable to the RWQCB, the discharger can be exempted from requirements for liners and leachate collection and removal systems (see §22490 of this article). However, the discharger shall comply with the requirements of this article relative to siting, precipitation and drainage controls, and surface water quality monitoring. Closure and post-closure maintenance periods shall be designed to protect surface water quality. Ground water monitoring, and unsaturated zone monitoring as feasible, shall be

conducted during the active life, closure, and post-closure maintenance period to verify that the Unit is not affecting ground water suitable for agricultural, domestic, or municipal beneficial uses.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13226, 13260, and 13263, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New chapter 7, subchapter 1, article 1 (sections 22470–22510) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22480. SWRCB—Groups of Mining Waste. (C15: §2571)

(a) Definition—Mining waste is waste from the mining and processing of ores and mineral commodities. Mining waste includes:

(1) overburden;

(2) natural geologic material which have been removed or relocated but have not been processed (waste rock); and

(3) the solid residues, sludges, and liquids from the processing of ores and mineral commodities.

(b) Waste Group Classification—Mining wastes shall be classified as Group A, Group B, or Group C mining wastes based on an assessment of the potential risk of water quality degradation posed by each waste. In setting requirements for each mining waste discharge under this article, the RWQCB shall assign the waste to Group A, Group B, or Group C according to the following criteria:

(1) Group A—mining wastes of Group A are wastes that must be managed as hazardous waste pursuant to Chapter 11 of Division 4.5, of Title 22 of this code, provided the RWQCB finds that such mining wastes pose a significant threat to water quality;

(2) Group B—mining waste of Group B are either:

(A) mining wastes that consist of or contain hazardous wastes, that qualify for a variance under Chapter 11 of Division 4.5, of Title 22 of this code, provided that the RWQCB finds that such mining wastes pose a low risk to water quality; or

(B) mining wastes that consist of or contain nonhazardous soluble pollutants of concentrations which exceed water quality objectives for, or could cause, degradation of waters of the state; or

(3) Group C—mining wastes from Group C are wastes from which any discharge would be in compliance with the applicable water quality control plan, including water quality objectives other than turbidity.

(c) Classification Considerations—In reaching decisions regarding classification of a mining waste as a Group B or Group C waste, the RWQCB can consider the following factors:

(1) whether the waste contains hazardous constituents only at low concentrations;

(2) whether the waste has no or low acid-generating potential; and

(3) whether, because of its intrinsic properties, the waste is readily containable by less stringent measures.

(d) Treatment—Mining waste shall be treated or neutralized whenever feasible to minimize the threat to water quality and minimize the need to install waste containment structures.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section, including Table 1.1 filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

Table 1.1. Summary of Requirements for New and Existing Mining Units

Type of Requirement	*New Units*	*Existing Units*	*Exemptions*
Siting	(1) Not on Holocene faults; (2) Outside of areas of rapid geologic change; (3) Peak streamflow protection as in Table 1.2	Peak streamflow protection as in Table 1.2, as required by RWQCBs.	New Units may be sited in areas of rapid geologic change if containment structures designed and constructed to preclude failure.
Construction	(1) Liners or maximum natural permeability as in Table 1.2; (2) Leachate collection and removal system as in Table 1.3; (3) Precipitation and drainage controls.	Precipitation and drainage controls.	(1) No liners or leachate collection and removal systems required for Group C Units. (2) New waste piles may be exempted from liners and leachate collection and removal systems if it can be demonstrated that leachate will not form or escape—contingency plan required, and additional monitoring may be required.
Monitoring	(1) Ground water and surface water; (2) Unsaturated zone monitoring as feasible.		None.
Closure and Post-Closure Maintenance	Closed and maintained in accordance with §22510.		None.

§ 22490. SWRCB—Mining Unit Siting and Construction Standards. (C15: §2572)

(a) Proximity to Faults—New Mining Units:

(1) for Group A and B wastes, shall not be located on Holocene faults. Units for Group C wastes may be located on Holocene faults if displacement will not allow escape of wastes or cause irreparable damage to containment structures;

(2) shall be outside of areas of rapid geologic change. Exemptions may be allowed by the RWQCB if containment structures are designed and constructed to preclude failure.

(b) Flooding—All Mining Units shall be protected from flooding as shown on Table 1.2 of this article.

(c) Construction & Discharge Standards—General construction standards are given on Table 1.3 of this article. Procedures for determining appropriate methods for discharges of Groups A and B mining wastes are outlined in Figures 1.1 and 1.2 of this article.

(d) Registered Professionals—Containment structures shall be designed by a registered civil engineer, and construction shall be supervised and certified by a registered civil engineer or a certified engineering geologist.

(e) General Containment Structure Criteria—Dischargers shall comply with general criteria for containment structures in §20320.

(f) Liners.

(1) FMLs—Synthetic liners (40 mil minimum thickness) can be used for waste piles where the discharger can demonstrate that the liner will function adequately during the active life of the waste pile and provided that the waste pile is closed in accordance with §21410.

(2) Relative Permeability—Permeabilities shall be relative to the fluids, including waste or leachate, to be contained.

(3) Clay Liners—Clay liners shall be of a minimum of two feet thick and shall be installed at relative compaction of at least 90 percent.

(4) Replaceable Clay-Liners—Single clay liners may be used for Group B surface impoundments if replaced as specified in §20330(e).

(5) Contingency Plan—If the RWQCB exempts a discharger from liner requirements for a waste pile, a contingency plan for alternative waste containment shall be developed. The plan shall be implemented if there is failure of the waste pile containment system.

(6) Dischargers shall comply with the liner criteria given in §20330 (a & d).

(g) Leachate Collection and Removal Systems (LCRSs) for Group A and B Wastes.

(1) All LCRSs shall be of the blanket type.

(2) Dischargers shall comply with leachate collection and removal system (LCRS) requirements given in §20340(b – e).

(h) Precipitation and Drainage Controls.

(1) Design Storm—Diversion and drainage facilities shall be designed and constructed to accommodate the anticipated volume of precipitation and peak flows from surface runoff as follows:

(A) Group A—one 25-year, 24-hour storm;

(B) Group B—one 10-year, 24-hour storm; and

(C) Group C—one 10-year, 24-hour storm.

(2) Excess Runoff—Precipitation on Group A and B waste piles that is not diverted by containment structures shall be collected and managed through the LCRS. The RWQCB can make exemptions to this requirement if the collected fluid does not contain indicator parameters or waste constituents in excess of applicable water quality objectives.

(3) Precipitation/Drainage Controls—Dischargers shall comply with precipitation and drainage control requirements given in §20365(d & e).

(i) Incorporated Impoundment Requirements—Dischargers shall comply with special requirements for surface impoundments given in §20375. Nevertheless, for Mining Units, dischargers shall use the precipitation conditions in ¶(h)(1).

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13226, and 13263, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section, including Table 1.2 filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

Table 1.2 Floodplain Siting Criteria

Waste Group	*Waste Management Unit*	*Existing Units*[1]	*New Units*
A	Waste Pile Surface Impoundment Tailings Pond	Protect from 100-year peak streamflow	Outside 100-year floodplain
B	Waste Pile Surface Impoundment Tailings Pond	Protect from 100-year peak	streamflow
C	Waste Pile Surface Impoundment Tailings Pond	Retrofit as needed to protect surface water quality	Preclude increased sediment in surface water[2]

[1] As required by the RWQCB pursuant §22470(a).

[2] Mining wastes shall not be placed in perennial, intermittent, or ephemeral stream channels unless provision is made to divert runoff around the waste in a non-erosive manner. Wastes shall not be placed where they can be eroded by streamflows or where they can cause accelerated streambank erosion. Waste generated during seasonal mining operations may be exempted from these requirements provided that increased sediment in surface water is precluded.

Table 1.3 Natural and Artificial Containment Features for Mining Units

Waste Group	*Waste Management Unit*	*Geologic Setting*	*Liner(s) Hydr. Cond. Values (Units: cm/sec)*	*Leachate Collection and Removal System*
A	Waste Pile	per §2531(b)(1) of Title 23, OR single clay liner[1] $<1x10^{-7}$		required
	Surface Impoundment or Tailings Pond	not applicable	double liner, both $<1x10^{-7}$ outer: clay; Inner: clay or synthetic	required(2)
B	Waste Pile	per §20250(b)(1) OR single clay liner	$<1x10^{-6}$ (1)	required
	Surface Impoundment or Tailings Pond	not applicable	double liner, both $<1x10^{-6}$ // outer: clay or natural permeability(3); inner: clay or synthetic OR single replaceable clay liner(4)	required(2)
C	Waste Pile, Surface Impoundment, or Tailings Pond	not applicable	not applicable	not applicable

(1) Synthetic liner may be used for short-term containment [see §22490(f)(1)].

(2) Liner and leachate collection and removal system for tailings pond must be able to withstand the ultimate weight of wastes.

(3) Permeability of $<1x10^{-6}$ cm/sec or natural geologic materials may replace outer liner of double liner system.

(4) Single clay liner $<(1x10^{-6}$ cm/sec) for surface impoundment, to be removed before last 25 percent (minimum 1 foot thickness) of liner is penetrated by fluid, including waste and leachate.

§ 22500. SWRCB—Water Quality Monitoring for Mining Units. (C15: §2573)

(a) General—New and existing Group A and B Mining Units shall comply with the monitoring provisions contained in §20385 through §20430.

(b) Monitoring Mandatory—If a waste pile containing Group A or B mining wastes is granted exemption from construction requirements pursuant to §22470(b), monitoring of the waste moisture content shall be required.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13226, 13263, and 13267, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22510. SWRCB—Closure and Post–Closure Maintenance of Mining Units. (C15: §2574)

(a) Closure Performance Standard—New and existing Mining Units shall be closed so that they no longer pose a threat to water quality. No post–closure land uses shall be permitted that might impair the integrity of containment structures.

(b) Plan—Mining Units shall be closed according to an approved closure and post–closure maintenance plan which implements this section and provides for continued compliance with the applicable standards in this article for waste containment, precipitation and drainage controls, and monitoring throughout closure and the post–closure maintenance period.

(c) Reclamation—The RWQCB shall issue WDRs which incorporate the relevant provisions of an approved mining and reclamation plan (see California Surface Mining and Reclamation Act, Public Resources Code, Section 2770, et seq.), prescribe additional conditions as necessary to prevent water quality degradation, and ensure that there will be no significant increase in the concentration of indicator parameters or waste constituents in ground or surface water, unless requirements are waived.

(d) Oversight & Monuments—Dischargers shall comply with the closure requirements given in §20950(b & d).

(e) Inactive Units—Containment structures at inactive Mining Units shall be subject to the same standards as apply to an active Mining Unit under this article.

(f) Closure and Post–Closure Funding—The discharger shall provide for adequate funding to pay for the costs of closure and post–closure maintenance as required by this article. The discharger shall provide assurance of financial responsibility, acceptable to the RWQCB, pursuant to Chapter 6 of this title. The RWQCB shall periodically review financial assurances and shall modified them as necessary.

(g) Alternate Financial Assurance—If a lead agency acting under the authority of §2774(a) of the Public Resources Code requires assurances of financial responsibility, these assurances can be used to fulfill all comparable requirements under ¶(f), provided that:

(1) the RWQCB approves the assurance; and

(2) the RWQCB is named as alternate payee.

(h) Ending Post–Closure—The post–closure maintenance period shall end when the RWQCB determines that water quality aspects of reclamation are complete and waste no longer poses a threat to water quality.

(i) Vegetation—Vegetation for closed Mining Units shall not impair the integrity of containment features. Irrigation of vegetation shall be managed to assure that it does not cause nor increase the production of leachate.

(j) Waste Pile Closure Standards—New and existing Group A and B waste piles shall be closed in accordance with the provisions of §21090(a – c).

(k) Surface Impoundment Closure Standards—New and existing Group A and B surface impoundments shall be closed in accordance with the provisions of paragraphs (a) and (b)(1) of §21400. A surface impoundment can be closed in place if provided with a cover as in §21090(a) and if the liner (or, in the case of a double liner system, the outer liner) is clay.

(l) Tailings Pond Closure Standards—New and existing Group A and B tailings ponds shall be closed in accordance with the provisions of §21090(a – c)and §21400(a).

(m) Erosion & Sedimentation Protection—New and existing Group C Mining Units shall be closed in a manner that will minimize erosion and the threat of water quality degradation from sedimentation.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, 13226, and 13263, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section, including Figures 1.1 and 1.2, filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

FIGURE 1.1

DISPOSAL ALTERNATIVES FOR GROUP A WASTES

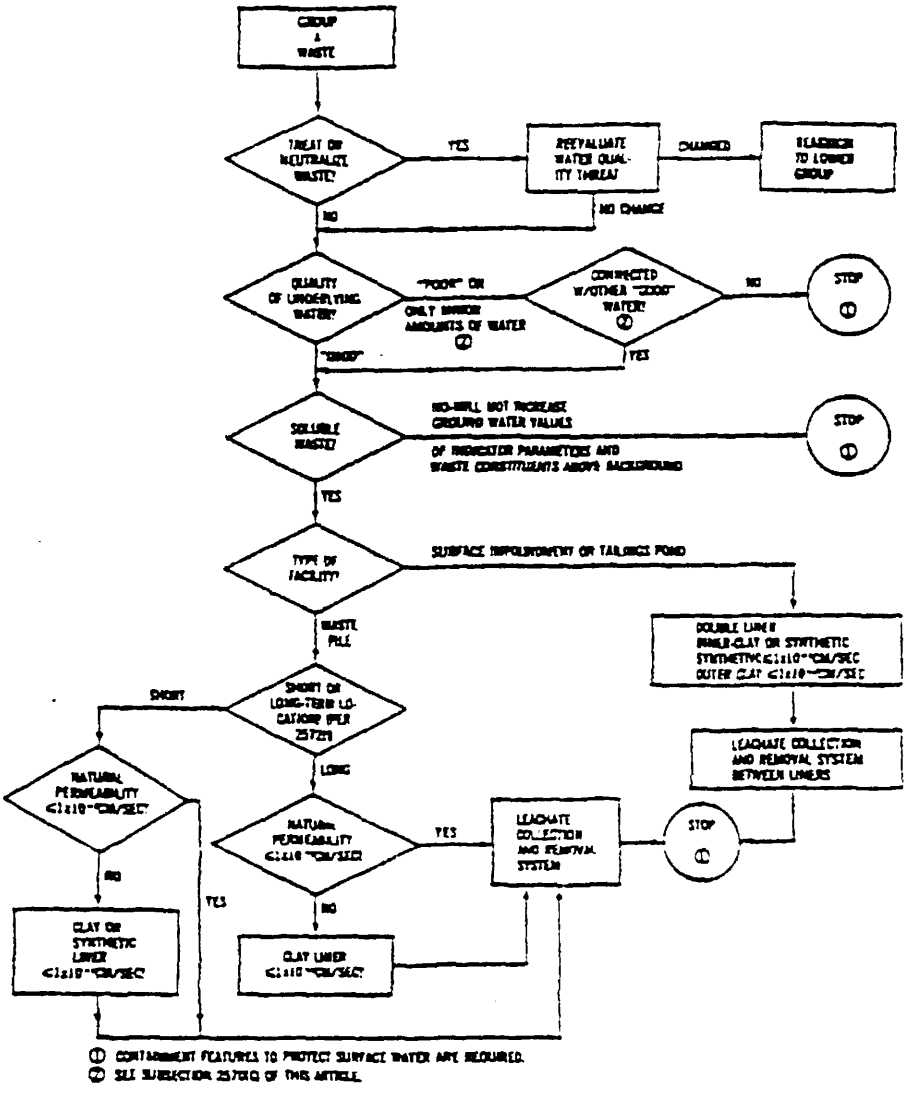
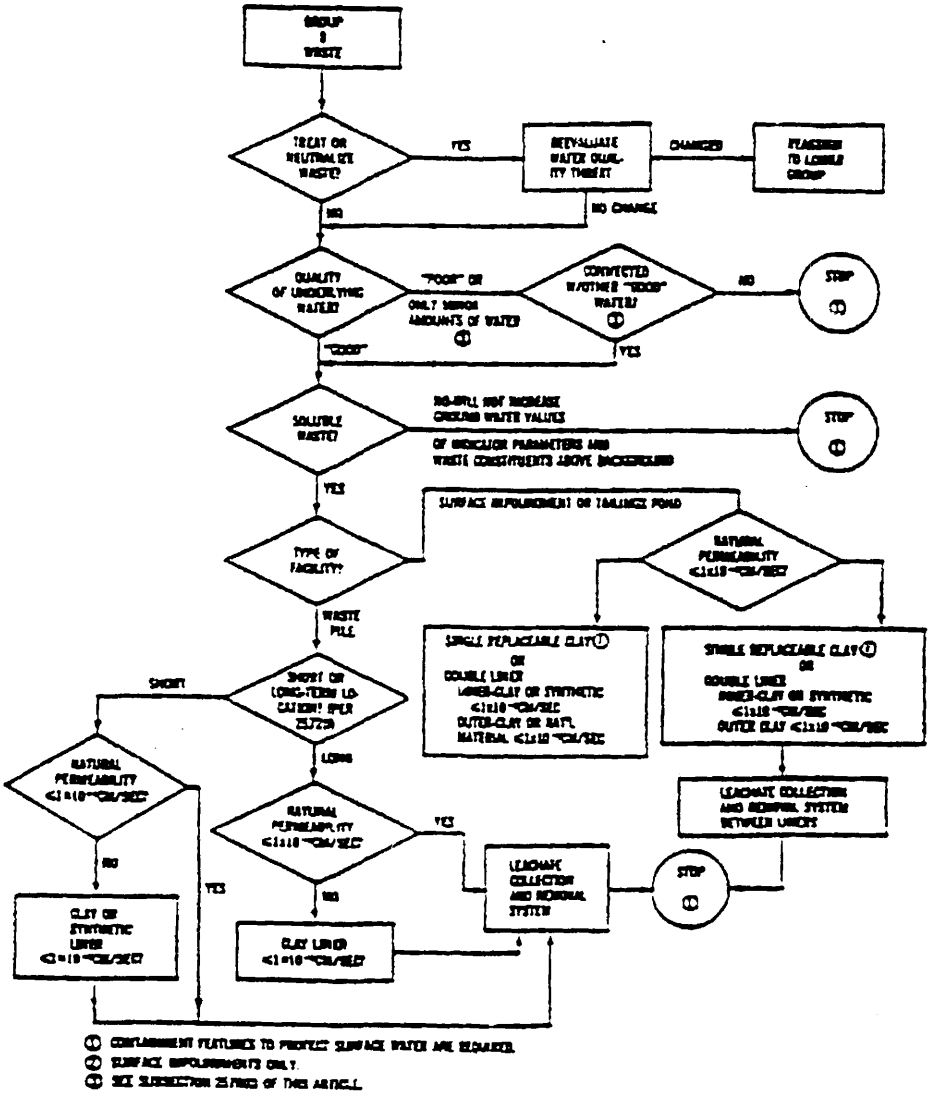


FIGURE 1.2

DISPOSAL ALTERNATIVES FOR GROUP B WASTES



CONTAINMENT FEATURES TO PROTECT SURFACE WATER ARE REQUIRED.
SURFACE IMPOUNDMENTS ONLY.
SEE SUBSECTION 25 PART OF THIS ARTICLE.

Subchapter 2. Confined Animals

Article 1. SWRCB—Confined Animal Facilities

[*Note: Regulations in this article were promulgated by the State Water Resources Control Board (SWRCB), are administered by the appropriate Regional Water Quality Control Board (RWQCB) through the issuance of waste discharge requirements (WDRs), and are applicable to the owner or operator of a waste management unit (Unit) for the treatment, storage, or disposal of animal waste at confined animal facilities.*]

§ 22560. SWRCB—Applicability. (C15: §2560)

(a) General—This article prescribes statewide minimum standards for discharges of animal waste at confined animal facilities. These standards shall either be implemented in any WDRs issued for a particular animal waste facility or shall be made a condition to the waiver of such requirements.

(b) ROWD—A discharger required to submit a report of waste discharge shall provide the following general information and shall report any material changes as defined in Section 2210 of Title 23 of this code:

(1) average daily volume of facility wastewater and volume or weight of manure;

(2) total animal population at the facility, and types of animals;

(3) location and size of use or disposal fields and retention ponds, including animal capacity; and

(4) animal capacity of the facility.

(c) Regulations Are Minimum Standards—The RWQCB shall impose additional requirements, if such additional requirements are necessary to prevent degradation of water quality or impairment of beneficial uses of waters of the state.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13140–13147, 13260 and 13263, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New subchapter 2, article 1 (sections 22560–22565) and section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22561. SWRCB—General Standard for Surface Water. (C15: §2561)

The discharger shall prevent animals at a confined animal facility from entering any surface water within the confined area.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13140–13147, 13260 and 13263, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22562. SWRCB—Wastewater Management. (C15: §2562)

(a) Design Storm (for Run–On/Run–Off Control)—Confined animal facilities shall be designed and constructed to retain all facility wastewater generated, together with all precipitation on, and drainage through, manured areas during a 25–year, 24–hour storm.

(b) Manured Area Run–On Exclusion—All precipitation and surface drainage outside of manured areas, including that collected from roofed areas, and runoff from tributary areas during the storm events described in ¶(a), shall be diverted away from manured areas, unless such drainage is fully retained. RWQCBs can waive application of such requirements only in specific instances where upstream land use changes have altered surface drainage patterns such that retention of flood flows is not feasible.

(c) Design Storm (for Flood Protection).

(1) Retention ponds and manured areas at confined animal facilities in operation on or after November 27, 1984, shall be protected from inundation or washout by overflow from any stream channel during 20–year peak stream flows.

(2) Existing facilities that were in operation on–or–before November 27, 1984, and that are protected against 100–year peak stream flows must continue to provide such protection. Facilities, or portions thereof, which begin operating after November 27, 1984, shall be protected against 100–year peak stream flows.

(3) The determination of peak stream flows shall be from data provided by a recognized federal, state, local, or other agency.

(d) Retention Pond Design—Retention ponds shall be lined with, or underlain by, soils which contain at least 10 percent clay and not more than 10 percent gravel or artificial materials of equivalent impermeability.

(e) Discharge To Disposal/Use Fields—The RWQCB shall allow the discharge of facility wastewater and of collected precipitation and drainage waters to use or disposal fields only if such discharge is in accordance with §22563. Absent an NPDES permit for discharge to surface waters, the only other allowable discharge is to wastewater treatment facilities approved by the RWQCB.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).
2. Change without regulatory effect amending subsection (e) filed 3–17–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 12).

§ 22563. SWRCB—Use or Disposal Field Management. (C15: §2563)

(a) Reasonable Soil Amendment Rate—Application of manure and wastewater to disposal fields or crop lands shall be at rates which are reasonable for the crop, soil, climate, special local situations, management system, and type of manure.

(b) Run–Off & Percolation—Discharges of facility wastewater to disposal fields shall not result in surface runoff from disposal fields and shall be managed to minimize percolation to ground water.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 13172, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22564. SWRCB—Management of Manured Areas. (C15: §2564)

Manured areas shall be managed to minimize infiltration of water into underlying soils.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 13172, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

§ 22565. SWRCB—Monitoring. (C15: §2565)

The RWQCB can require confined animal facility operations to undertake a monitoring program as a condition to the issuance or waiver of WDRs.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 13172 and 13267, Water Code; and Section 43103, Public Resources Code.

HISTORY

1. New section filed 6–18–97; operative 7–18–97 (Register 97, No. 25).

Subchapter 3. Composting Facilities [Reserved by CIWMB]

Subchapter 4. Waste Tire Facilities [Reserved by CIWMB]

Subchapter 5. Transfer and Processing Stations [Reserved by CIWMB]

Subchapter 6. Solar Evaporators

Article 1. Solar Evaporator Regulations

[Note: regulations in this article were promulgated by the State Water Resources Control Board (SWRCB), are administered by the appropriate Regional Water Quality Control Board (RWQCB), and are applicable to the owner or operator of a solar evaporator for the management of agricultural drainage water discharges from an integrated on-farm drainage management system (IFDM).]

§ 22900. SWRCB — Applicability.

(a) General — This article applies to the discharge of agricultural drainage water from Integrated On-Farm Drainage Management (IFDM) systems to solar evaporators as defined in §22910. No SWRCB-promulgated parts of the Division 2 of Title 27 and Division 3, Chapter 15 of Title 23 of the California Code of Regulations (CCR) shall apply to the discharge of agricultural drainage water from IFDM systems to solar evaporators unless those sections are specifically referenced in this article. Any person who intends to operate a solar evaporator after November 22, 2004 shall comply with the requirements of this article before a Notice of Plan Compliance and Notice of Authority to Operate (§25209.13 of Article 9.7 of the Health and Safety Code) will be issued by a Regional Water Quality Control Board (RWQCB).

NOTE: Authority cited: Section 25209.12, Health and Safety Code. Reference: Sections 25209.12, 25209.13 and 25209.17, Health and Safety Code.

HISTORY

1. New subchapter 6 (article 1), article 1 (sections 22900–22950) and section filed 11–22–2004; effective on filing; pursuant to Health and Safety Code section 25209.16 this section remains in effect until revised by the State Water Resources Control Board (Register 2004, No. 48).

§ 22910. SWRCB — Definitions.

For purposes of this article, the following terms have the following meanings:

(a) "Adequately protected" means that:

(1) Avian wildlife have no access to standing water in a water catchment basin.

(2) Standing water does not occur in a solar evaporator outside of a water catchment basin, under reasonably forseeable operating conditions.

(3) The solar evaporator, including the water catchment basin, does not become a medium for the growth of aquatic and semi-aquatic macro invertebrates that could become a harmful food source for avian wildlife, under reasonably forseeable operating conditions.

(b) "Agricultural drainage water" means surface drainage water or percolated irrigation water that is collected by subsurface drainage tiles placed beneath an agricultural field.

(c) "Avian Wildlife Biologist" means any State or federal agency biologist, ecologist, environmental specialist (or equivalent title) with relevant avian wildlife monitoring experience (as determined by the RWQCB), or any professional biologist, ecologist, environmental specialist (or equivalent title) possessing valid unexpired State and federal collecting permits for avian wildlife eggs.

(d) "Boundaries of the solar evaporator" or "boundaries of a solar evaporator" means the outer edge of the solar evaporator or any component of the solar evaporator, including, but not limited to, berms, liners, water catchment basins, windscreens, and deflectors.

(e) "Certified Engineering Geologist" means a registered geologist, certified by the State of California, pursuant to section 7842 of the Business and Professions Code.

(f) "Hydraulic conductivity" means the ability of natural and artificial materials to transmit water. The term is expressed as a measure of the rate of flow through a unit area cross-section of material. The unit of measure is cm/sec.

(g) "Integrated on-farm drainage management system" means a facility for the on-farm management of agricultural drainage water that does all of the following:

(1) Reduces levels of salt and selenium in soil by the application of irrigation water to agricultural fields.

(2) Collects agricultural drainage water from irrigated fields and sequentially reuses that water to irrigate successive crops until the volume of residual agricultural drainage water is substantially decreased and its salt content significantly increased.

(3) Discharges the residual agricultural drainage water to an on-farm solar evaporator for evaporation and appropriate salt management.

(4) Eliminates discharge of agricultural drainage water outside the boundaries of the property or properties that produces the agricultural drainage water and that is served by the integrated on-farm drainage management system and the solar evaporator.

(h) "Liner" means:

(1) a continuous layer of natural or artificial material, or a continuous membrane of flexible and durable artificial material, or a continuous composite layer consisting of a membrane of flexible artificial material directly overlying a layer of engineered natural material, which is installed beneath a solar evaporator, and which acts as a barrier to vertical water movement, and

(2) a material that has appropriate chemical and physical properties to ensure that the liner does not fail to contain agricultural drainage water because of pressure gradients, physical contact with the agricultural drainage water, chemical reactions with soil, climatic conditions, ultraviolet radiation (if uncovered), the stress of installation, and the stress of daily operation, and

(3) a material that has a minimum thickness of 40 mils (0.040 inches) for flexible artificial membranes or synthetic liners.

(4) The requirements of this definition are applicable only if a liner is used to meet the requirements of §22920(c).

(i) "Nuisance" means anything which meets all of the following requirements:

(1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

(2) Affects at the same time an entire community or neighborhood, or a considerable number of persons, although the extent of the annoyance or damage inflicted on individuals may be unequal.

(3) Occurs during, or as a result of, the treatment or disposal of wastes.

(j) "On-farm" means within the boundaries of a property, geographically contiguous properties, or a portion of the property or properties, owned or under the control of a single owner or operator, that is used for the commercial production of agricultural commodities and that contains an IFDM system and a solar evaporator.

(k) "Pollution" means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following:

(1) The waters for beneficial uses.

(2) Facilities which serve these beneficial uses.

(l) "Reasonably foreseeable operating conditions" means:

(1) within the range of the design discharge capacity of the IFDM system and the authorized solar evaporator system as specified in the Notice of Plan Compliance and Notice of Authority to Operate (§25209.13 of Article 9.7 of the Health and Safety Code),

(2) precipitation up to and including the local 25-year, 24-hour storm, and

(3) floods with a 100-year return period. Operation of a solar evaporator in exceedance of design specifications is not covered by "reasonably foreseeable operating conditions," and therefore would constitute a violation of the Notice of Authority to Operate.

(m) "Regional Board" and "RWQCB" means a California Regional Water Quality Control Board.

(n) "Registered Agricultural Engineer" means an agricultural engineer registered by the State of California, pursuant to section 6732 of the Business and Professions Code.

(o) "Registered Civil Engineer" means a civil engineer registered by the State of California, pursuant to section 6762 of the Business and Professions Code.

(p) "Registered Geologist" means a geologist registered by the State of California, pursuant to section 7842 of the Business and Professions Code.

(q) "Solar evaporator" means an on-farm area of land and its associated equipment that meets all of the following conditions:

(1) It is designed and operated to manage agricultural drainage water discharged from the IFDM system.

(2) The area of the land that makes up the solar evaporator is equal to, or less than, 2 percent of the area of the land that is managed by the IFDM system.

(3) Agricultural drainage water from the IFDM system is discharged to the solar evaporator by timed sprinklers or other equipment that allows the discharge rate to be set and adjusted as necessary to avoid standing water within the solar evaporator or, if a water catchment basin is part of the solar evaporator, within that portion of the solar evaporator that is outside the basin.

(4) The combination of the rate of discharge of agricultural drainage water to the solar evaporator and subsurface tile drainage under the solar evaporator provides adequate assurance that constituents in the agricultural drainage water will not migrate from the solar evaporator into the vadose zone or waters of the state in concentrations that pollute or threaten to pollute the waters of the state.

(r) "Standing water" means water occurring under all of the following conditions:

(1) to a depth greater than one centimeter,

(2) for a continuous duration in excess of 48 hours,

(3) as a body of any areal extent, not an average depth, and

(4) under reasonably forseeable operating conditions.

(s) "Subsurface drainage tiles" or "subsurface tile drainage" means any system of subsurface drainage collection utilizing drainage tiles, perforated pipe, or comparable conveyance, placed below the surface of any IFDM system area including the solar evaporator.

(t) "Unreasonable threat" to avian wildlife means that avian wildlife is not adequately protected.

(u) "Vadose zone" means the unsaturated zone between the soil surface and the permanent groundwater table.

(v) "Water catchment basin" means an area within the boundaries of a solar evaporator that is designated to receive and hold any water that might otherwise be standing water within the solar evaporator. The entire area of a water catchment basin shall be permanently and continuously covered with netting, or otherwise designed, constructed, and operated to prevent access by avian wildlife to standing water within the basin. A water catchment basin may include an enclosed solar still, greenhouse or other fully contained drainage storage unit. For the purposes of this definition, the term "within the boundaries of a solar evaporator" shall include a solar still, greenhouse, or other fully contained drainage storage unit adjacent to or near the portion of the solar evaporator that is outside the catchment basin.

(w) "Waters of the state" means any surface water or groundwater, including saline water, within the boundaries of the state.

NOTE: Authority cited: Section 25209.12, Health and Safety Code. Reference: Sections 25209.11(a), 25209.11(b), 25209.11(c), 25209.11(d), 25209.11(e), 25209.11(g) and 25209.13, Health and Safety Code.

HISTORY

1. New section filed 11-22-2004; effective on filing; pursuant to Health and Safety Code section 25209.16 this section remains in effect until revised by the State Water Resources Control Board (Register 2004, No. 48).

§ 22920. SWRCB — Solar Evaporator Design Requirements.

(a) Registered Professionals — Solar evaporators shall be designed by a registered civil or agricultural engineer, or a registered geologist or certified engineering geologist.

(b) Flooding — A solar evaporator shall be located outside the 100-year floodplain, or shall be constructed with protective berms/levees sufficient to protect the solar evaporator from overflow and inundation by 100-year floodwaters, or shall be elevated above the maximum elevation of a 100-year flood.

(c) Protection of Groundwater Quality — Solar evaporators shall be immediately underlain by at least 1 meter of soil with a hydraulic conductivity of not more than 1×10^{-6} cm/sec above the zone of shallow groundwater at any time during the year. The surface of the solar evaporator shall be a minimum of five-feet (5 ft.) above the highest anticipated elevation of underlying groundwater. A solar evaporator may be constructed on a site with soils that do not meet the above requirement, with subsurface tile drainage under or directly adjacent to the solar evaporator, a liner, or other engineered alternative, sufficient to provide assurance of the equivalent level of groundwater quality protection of the above soil requirement.

(d) Discharge to the Facility — All discharge to the solar evaporator shall be agricultural drainage water collected from the IFDM system or recirculated from the solar evaporator as a component of the IFDM system. No agricultural drainage water from the IFDM system or the solar evaporator may be discharged outside the boundaries of the solar evaporator

(e) Facility Size — The area of land that makes up the solar evaporator may not exceed 2 percent of the area of land that is managed by the IFDM system.

(f) Means of Discharge to the Facility — Discharge of agricultural drainage water from the IFDM system to the solar evaporator shall be by timed sprinklers or other equipment that allows the discharge rate to be set and adjusted as necessary to avoid standing water in the solar evaporator, outside a water catchment basin. The sprinklers shall be equipped with screens or shields or other devices as necessary to prevent the drift of agricultural drainage water spray outside the boundaries of the solar evaporator.

(g) Water Catchment Basin — A water catchment basin may be required:

(1) As a component of a solar evaporator if standing water would otherwise occur within the solar evaporator under reasonably foreseeable operating conditions, or

(2) If a solar evaporator is constructed with a liner. In this case, a water catchment basin shall be designed with the capacity to contain the maximum volume of water that the solar evaporator would collect under reasonably forseeable operating conditions. A water catchment basin is not required for a solar evaporator that does not have a liner, if it is demonstrated that standing water will not occur under reasonably foreseeable operating conditions.

(h) Avian Wildlife Protection — The solar evaporator shall be designed to ensure that avian wildlife is adequately protected as set forth in §22910(a) and (v).

NOTE: Authority cited: Section 25209.12, Health and Safety Code. Reference: Sections 25209.12(a), 25209.12(b), 25209.12(c) and 25209.12(d), Health and Safety Code.

HISTORY

1. New section filed 11-22-2004; effective on filing; pursuant to Health and Safety Code section 25209.16 this section remains in effect until revised by the State Water Resources Control Board (Register 2004, No. 48).

§ 22930. SWRCB — Solar Evaporator Construction Requirements.

(a) Registered Professionals — Construction of solar evaporators shall be supervised and certified, by a registered civil or agricultural engineer, or a registered geologist or certified engineering geologist, as built according to the design requirements and Notice of Plan Compliance (§25209.13 of Article 9.7 of the Health and Safety Code).

NOTE: Authority cited: Section 25209.12, Health and Safety Code. Reference: Sections 25209.12 and 25209.13, Health and Safety Code.

HISTORY

1. New section filed 11-22-2004; effective on filing; pursuant to Health and Safety Code section 25209.16 this section remains in effect until revised by the State Water Resources Control Board (Register 2004, No. 48).

§ 22940. SWRCB — Solar Evaporator Operation Requirements.

(a) Limitation on Standing Water — The solar evaporator shall be operated so that, under reasonably forseeable operating conditions, the discharge of agricultural drainage water to the solar evaporator will not result in standing water, outside of a water catchment basin. Agricultural drainage water from the IFDM system shall be discharged to the solar evaporator by timed sprinklers or other equipment that allows the discharge rate to be set and adjusted as necessary to avoid standing water in the solar evaporator.

(b) Prevention of Nuisance — The solar evaporator shall be operated so that, under reasonably forseeable operating conditions, the discharge of agricultural drainage water to the solar evaporator does not result in:

(1) The drift of salt spray, mist, or particles outside of the boundaries of the solar evaporator, or

(2) Any other nuisance condition.

(c) Prohibition of Outside Discharge — The operation of a solar evaporator shall not result in any discharge of agricultural drainage water outside the boundaries the solar evaporator.

(d) Salt Management — For solar evaporators in continuous operation under a Notice of Authority to Operate issued by a Regional Water Quality Control Board, evaporite salt accumulated in the solar evaporator shall be collected and removed from the solar evaporator if and when the accumulation is sufficient to interfere with the effectiveness of the operation standards of the solar evaporator as specified in this section. One of the following three requirements shall be selected and implemented by the owner or operator:

(1) Evaporite salt accumulated in the solar evaporator may be harvested and removed from the solar evaporator and sold or utilized for commercial, industrial, or other beneficial purposes.

(2) Evaporite salt accumulated in the solar evaporator may be stored for a period of one-year, renewable subject to an annual inspection, in a fully contained storage unit inaccessible to wind, water, and wildlife, until sold, utilized in a beneficial manner, or disposed in accordance with (3).

(3) Evaporite salt accumulated in the solar evaporator may be collected and removed from the solar evaporator, and disposed permanently as a waste in a facility authorized to accept such waste in compliance with the requirements of Titles 22, 23, 27 and future amendments of the CCR, or Division 30 (commencing with Section 40000) of the Public Resources Code.

(e) Monitoring — Monitoring and record keeping, including a groundwater monitoring schedule, data, and any other information or reporting necessary to ensure compliance with this article, shall be established by the RWQCB in accord with §25209.14 of Article 9.7 of the Health and Safety Code.

(f) Avian Wildlife Protection — The solar evaporator shall be operated to ensure that avian wildlife is adequately protected as set forth in §22910(a) and (v). The following Best Management Practices are required:

(1) Solar evaporators (excluding water catchment basins) shall be kept free of all vegetation.

(2) Grit-sized gravel (<5 mm in diameter) shall not be ued as a surface substrate within the solar evaporator.

(3) Netting or other physical barriers for excluding avian wildlife from water catchment basins shall not be allowed to sag into any standing water within the catchment basin.

(4) The emergence and dispersal of aquatic and semi-aquatic macro invertebrates or aquatic plants outside of the boundary of the water catchment basin shall be prevented.

(5) The emergence of the pupae of aquatic and semi-aquatic macro invertebrates from the water catchment basin onto the netting, for use as a pupation substrate, shall be prevented.

(g) Inspection — The RWQCB issuing a Notice of Authority to Operate a solar evaporator shall conduct authorized inspections in accord with §25209.15 of Article 9.7 of the Health and Safety Code to ensure continued compliance with the requirements of this article. The RWQCB shall request an avian wildlife biologist to assist the RWQCB in its inspection of each authorized solar evaporator at least once annually during the month of May. If an avian wildlife biologist is not available, the RWQCB shall nevertheless conduct the inspection. During the inspection, observations shall be made for compliance with §22910(a) and (v), and the following conditions that indicate an unreasonable threat to avian wildlife:

(1) Presence of vegetation within the boundaries of the solar evaporator;

(2) Standing water or other mediums within the solar evaporator that support the growth and dispersal of aquatic or semi-aquatic macro invertebrates or aquatic plants;

(3) Abundant sustained avian presence within the solar evaporator that could result in nesting activity;

(4) An apparent avian die-off or disabling event within the solar evaporator;

(5) Presence of active avian nests with eggs within the boundaries of the solar evaporator.

If active avian nests with eggs are found within the boundaries of the solar evaporator, the RWQCB shall report the occurrence to the USFWS and DFG within 24 hours, and seek guidance with respect to applicable wildlife laws and implementing regulations. Upon observation of active avian nests with eggs within the boundaries of the solar evaporator, all discharge of agricultural drainage water to the solar evaporator shall cease until (a) the nests are no longer active, or (b) written notification is received by the owner or operator, from the RWQCB, waiving the prohibition of discharge in compliance with all applicable state and federal wildlife laws and implementing regulations (i.e., as per applicable exemptions and allowable take provisions of such laws and implementing regulations.)

NOTE: Authority cited: Section 25209.12, Health and Safety Code. Reference: Sections 25209.12(a), 25209.12(b), 25209.12(c), 25209.12(d), 25209.12(e), 25209.12(f), 25209.14(a) and 25209.15(a), Health and Safety Code.

HISTORY

1. New section filed 11-22-2004; effective on filing; pursuant to Health and Safety Code section 25209.16 this section remains in effect until revised by the State Water Resources Control Board (Register 2004, No. 48).

§ 22950. SWRCB — Solar Evaporator Closure Requirements.

(a) For solar evaporators ceasing operation through discontinuance of operation or non-renewal of a Notice of Authority to Operate issued by a RWQCB, closure and post-closure plans shall be prepared and submitted to the RWQCB and approved by the RWQCB prior to closure. Closure plans shall conform to one of the following three requirements to be selected and implemented by the owner or operator:

(1) Evaporite salt accumulated in the solar evaporator may be harvested and removed from the solar evaporator and sold or utilized for commercial, industrial, or other beneficial purposes or stored for a period of one-year, renewable subject to an annual inspection, in a fully contained storage unit inaccessible to wind, water, and wildlife, until sold, utilized in a beneficial manner, or disposed in accordance with (3). After the removal of accumulated salt, the area within the boundaries of the solar evaporator shall be restored to a condition that does not pollute or threaten to pollute the waters of the state, that does not constitute an unreasonable threat to avian wildlife, and that does not constitute a nuisance condition. Clean closure may be accomplished in accord with §21090(f) and §21400 of CCR Title 27.

(2) The solar evaporator may be closed in-place, with installation of a final cover with foundation, low-hydraulic conductivity, and erosion-resistant layers, as specified in §21090 and §21400 of CCR Title 27. Closure in-place shall include a closure plan and post-closure cover maintenance plan in accord with §21090 and §21769 of CCR Title 27.

(3) Evaporite salt accumulated in the solar evaporator may be collected and removed from the solar evaporator, and disposed permanently as a waste in a facility authorized to accept such waste in compliance with

the requirements of Titles 22, 23, 27 and future amendments of the CCR, or Division 30 (commencing with Section 40000) of the Public Resources Code. After the removal of accumulated salt, the area within the boundaries of the solar evaporator shall be restored to a condition that does not pollute or threaten to pollute the waters of the state, that does not constitute an unreasonable threat to avian wildlife, and that does not constitute a nuisance condition.

NOTE: Authority cited: Section 25209.12, Health and Safety Code. Reference: Section 25209.12(f), Health and Safety Code; and Sections 21090, 21400 and 21769, Title 27, California Code of Regulations.

HISTORY

1. New section filed 11-22-2004; effective on filing; pursuant to Health and Safety Code section 25209.16 this section remains in effect until revised by the State Water Resources Control Board (Register 2004, No. 48).

Chapter 8. Other Provisions

Subchapter 1. Financial Assistance Programs

Article 1. Landfill Closure Loan Program

§ 23001. Purpose of the Landfill Closure Loan Program.

The purpose of the Landfill Closure Loan Program (Program) is to provide loans to operators of older-technology, unlined landfills who desire to close their landfills in order to avoid or to mitigate potential environmental problems being caused or threatened by continued operation of the landfill.

NOTE: Authority cited: Sections 40502 and 48206, Public Resources Code. Reference: Section 48202(a) and (b), Public Resources Code.

HISTORY

1. New chapter 8, subchapter 1, article 1 (sections 23001-23014) and section filed 5-18-2004; operative 6-17-2004 (Register 2004, No. 21).

§ 23002. Definitions.

Unless the context requires another construction, the definitions set forth in this chapter, §20164 and Division 30 of the Public Resources Code shall govern the construction of this Article. No definitions that are present in Division 30 of the Public Resources Code are repeated herein. Consequently, those definitions should be read in conjunction with the ones set forth herein:

(a) "Applicant" means the entity applying for a loan.

(b) "Application" means the information an applicant must provide the Board when applying for a loan.

(c) "Board" means California Integrated Waste Management Board.

(d) "Borrower" means an applicant who has received a Program loan.

(e) "Early Closure" means the process during which a landfill is no longer receiving waste and is undergoing all operations necessary to prepare the landfill for closure in accordance with an approved closure and postclosure plan prior to reaching final capacity.

(f) "Loan" means a loan from the Landfill Closure Loan Program.

(g) "Older Technology" means an unlined landfill as defined in (h) below.

(h) "Unlined Landfill" means a landfill that does not have a liner as defined in §20164.

(i) "Rural Area" means any of the following:

(1) An incorporated city that has a population density of less than 1,500 people per square mile;

(2) Any county that has a population of 200,000 or less;

(3) Counties and cities located in agricultural, desert, or mountainous areas of the state and located outside the Department of Finance's Primary Metropolitan Statistical Areas.

(j) "Serious Potential Threat" means a serious threat to the public heath and safety, or the environment as determined by the Board.

(k) "Small" means a landfill that has received an average of less than 100 tons of municipal solid waste per day during its operating life.

NOTE: Authority cited: Sections 40502 and 48206, Public Resources Code. Reference: Sections 40000, 40001 and 48202, Public Resources Code.

HISTORY

1. New section filed 5-18-2004; operative 6-17-2004 (Register 2004, No. 21).

§ 23003. Use of Loan Proceeds.

Loan proceeds may be used for any and all purposes related to the closure of an eligible landfill as approved by the Board, including, without limitation, construction costs consistent with the landfill's approved final closure plan, planning and design costs necessary to prepare the final closure and postclosure maintenance plans, costs of preparing environmental documents associated with the final closure and postclosure maintenance plans or closure, and governmental fees associated with the final closure and postclosure maintenance plans or closure.

NOTE: Authority cited: Sections 40502 and 48206, Public Resources Code. Reference: Section 48202(a) and (b), Public Resources Code.

HISTORY

1. New section filed 5-18-2004; operative 6-17-2004 (Register 2004, No. 21).

§ 23004. Landfill Eligibility Criteria.

To be eligible for a loan the landfill must:

(a) Be a solid waste landfill, as defined in PRC Section 40195.1(a);

(b) Have a current solid waste facilities permit issued by the applicable enforcement agency;

(c) Be unlined; and

(d) Be using a trust fund(s) or enterprise fund(s) as financial assurance mechanism(s) to fund landfill closure and such mechanisms shall be in compliance with the current required level of funding and meet all other requirements provided in §22200 et seq.

NOTE: Authority cited: Sections 40502 and 48206, Public Resources Code. Reference: Sections 48202(a) and (b) and 48204(b) and (c), Public Resources Code.

HISTORY

1. New section filed 5-18-2004; operative 6-17-2004 (Register 2004, No. 21).

§ 23005. Operator Eligibility Criteria.

To be eligible for a loan, the operator must demonstrate the ability to:

(a) Repay the loan in a timely manner and to satisfy all other requirements imposed on the operator in the loan agreement;

(b) Promptly and properly close the site with monetary assistance from the Program; and

(c) Adequately maintain the closed site (i.e., a currently acceptable postclosure maintenance financial assurance mechanism).

NOTE: Authority cited: Sections 40502 and 48206, Public Resources Code. Reference: Sections 48202(a) and 48204(b) and (c), Public Resources Code.

HISTORY

1. New section filed 5-18-2004; operative 6-17-2004 (Register 2004, No. 21).

§ 23006. Loan Priorities.

The Board shall give priority to loans to close those landfills which:

(a) Demonstrate the highest degree of risk to public health and safety or the environment which can be prevented or mitigated by closure of the landfill;

(b) Are small landfills;

(c) Are located in rural areas;

(d) Have approved Closure and Postclosure Maintenance Plans; and

(e) Propose complete closure of the site.

NOTE: Authority cited: Sections 40502 and 48206, Public Resources Code. Reference: Section 48202(b), Public Resources Code.

HISTORY

1. New section filed 5-18-2004; operative 6-17-2004 (Register 2004, No. 21).

§ 23007. Loan Amount, Length of Term, and Interest Rate.

(a) The Board shall determine the loan amount for each loan not to exceed $500,000.

(b) The Board shall determine the term of each loan not to exceed 10 years.

(c) The Board shall determine the interest rate set for each loan. The interest rate may be set at zero (0) percent per year.

NOTE: Authority cited: Sections 40502 and 48206, Public Resources Code. Reference: Section 48204(d)-(f), Public Resources Code.

HISTORY
1. New section filed 5–18–2004; operative 6–17–2004 (Register 2004, No. 21).

§ 23008. Application Submittal.

(a) Provided that loan funds are available for disbursement, the Board shall solicit loan applications from eligible operators at least once per year.

(b) Applicants may submit applications to the Board during open application cycles only.

(c) The applicant must submit an original application and five copies including all required attachments.

NOTE: Authority cited: Sections 40502 and 48206, Public Resources Code. Reference: Section 48202(b), Public Resources Code.

HISTORY
1. New section filed 5–18–2004; operative 6–17–2004 (Register 2004, No. 21).

§ 23009. Application Content.

(a) Each applicant must submit an application that includes, but is not limited to facility, project and financial information. Applicants must provide documentation deemed necessary by the Board, on a case–by–case basis, to determine the need for the loan, the ability to complete the project in a timely manner, and the Applicant's ability to secure and repay the loan.

(b) Required attachments to accompany each application shall include, but are not limited to:

(1) A detailed work plan, and

(2) For local governments, an approved resolution of the local governing authority to make an application to the Board for a loan commitment.

NOTE: Authority cited: Sections 40502 and 48206, Public Resources Code. Reference: Sections 48202(a) and (b) and 48204(b), Public Resources Code.

HISTORY
1. New section filed 5–18–2004; operative 6–17–2004 (Register 2004, No. 21).

§ 23010. Application Review.

(a) Board staff shall review all applications for eligibility based on the criteria specified in §§23004 and 23005 of this article.

(b) Board staff shall rank all eligible projects based on the criteria for priority consideration specified in §23006 of this article. If no eligible projects meet the requirements for priority consideration, Board staff will rank eligible projects on the basis of the criteria contained in §23005.

NOTE: Authority cited: Sections 40502 and 48206, Public Resources Code. Reference: Sections 48202(a) and (b) and 48204(b) and (c), Public Resources Code.

HISTORY
1. New section filed 5–18–2004; operative 6–17–2004 (Register 2004, No. 21).

§ 23011. Board Approval.

(a) After determining eligibility and project ranking, Board staff shall submit recommendations for funding to the Board.

(b) If the Board approves a loan, the Applicant and the Board shall enter into a Loan Agreement as specified in §23012. Funds shall be disbursed according to the terms of the Loan Agreement.

(c) The Board may delegate to the Executive Director the approval of loans.

NOTE: Authority cited: Sections 40502 and 48206, Public Resources Code. Reference: Section 48204(a), Public Resources Code.

HISTORY
1. New section filed 5–18–2004; operative 6–17–2004 (Register 2004, No. 21).

§ 23012. Loan Agreement.

Each loan agreement shall include, but not be limited to, the following terms and conditions:

(a) The interest rate of the loan.

(b) The term of the loan.

(c) A description of the security, if any, given to assure repayment of the loan.

(d) Timeframes for complying with the conditions of loan closing and any special conditions that must be satisfied prior to, or covenants which must be complied with after, the disbursement of funds.

(e) Identification of what is considered an event of default, including a provision that, upon failure to comply with the loan agreement, or if any information provided by the applicant is found to be untrue, any remaining unpaid amount of the loan will be immediately due and payable upon determination of default by the Board.

(f) A provision that the Borrower agrees to waive any claims against and to indemnify and hold harmless the State of California, including the California Integrated Waste Management Board, from and against any and all claims, liabilities, costs, and expenses stemming from operation, maintenance, or environmental degradation at the landfill or arising from or in connection with any activity funded by the loan.

(g) Proof of adequate insurance for the Borrower, naming the Board as loss payee, and when appropriate, naming the Board as additional insured, up to the amount of the loan.

(h) The Borrower shall establish a Landfill Closure Loan Account into which all loan amounts received shall be deposited and from which funds are disbursed. Expenditures from this account shall be made only for eligible project costs as defined in the Loan Agreement.

(i) For Borrowers without approved final closure and postclosure maintenance plans for their landfills(s):

(1)Timeframes for submittal and approval of closure and postclosure maintenance plans, and

(2) Provision requiring approval of final closure and post closure maintenance plans prior to commencing closure activities.

(j) Any other provisions that the Board determines are necessary or appropriate.

NOTE: Authority cited: Sections 40502 and 48206, Public Resources Code. Reference: Section 48204(a), Public Resources Code.

HISTORY
1. New section filed 5–18–2004; operative 6–17–2004 (Register 2004, No. 21).

§ 23013. Auditing of Expenditure of Loan Proceeds.

(a) The Board, or the Department of Finance, may audit the expenditure of the proceeds of any loan made pursuant to this Article.

(b) The Borrower shall maintain records in accordance with accepted government accounting standards. Records shall be retained at least three (3) years after expiration of the Agreement, or until completion of actions and resolution of all issues which may arise as a result of any litigation, claim, negotiation or audit, whichever is later.

NOTE: Authority cited: Sections 40502 and 48206, Public Resources Code. Reference: Section 48204(g), Public Resources Code.

HISTORY
1. New section filed 5–18–2004; operative 6–17–2004 (Register 2004, No. 21).

§ 23014. Review of Records and Site Reviews.

Board staff and the Local Enforcement Agency (LEA) may inspect the Borrower's records and may conduct on–site reviews during the project to verify compliance with the specifications and terms of the Loan Agreement.

NOTE: Authority cited: Sections 40502 and 48206, Public Resources Code. Reference: Section 48202(c), Public Resources Code.

HISTORY
1. New section filed 5–18–2004; operative 6–17–2004 (Register 2004, No. 21).

[The next page is 693.]

Appendix 1

Joint Permit Application Form

[Temporary Note: The form "Application for Solid Waste Facility Permit/Waste Discharge Requirements" is contained herein. The application has regulatory effect and, as such, is considered as part of this rulemaking.]

STATE OF CALIFORNIA
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
REGIONAL WATER QUALITY CONTROL BOARD

APPLICATION FOR SOLID WASTE FACILITY PERMIT/WASTE DISCHARGE REQUIREMENTS

CIWMB E-1-77 (Rev. 8-04)

NOTE: This form has been developed for multiple uses. It is the transmittal sheet for documents required to be submitted to the appropriate agency. Please refer to the attached instructions for definitions of terms and for completing this application form in a complete and correct manner.

FOR OFFICIAL USE ONLY			
SWIS NUMBER:	FILING FEE:	RECEIPT NUMBER:	DATE RECEIVED:
DATE ACCEPTED:	DATE REJECTED:	ACCEPTANCE DATE OF INCOMPLETE APPLICATION: _____ DATE DUE: _____	

Part 1. GENERAL INFORMATION

A. ENFORCEMENT AGENCY:

B. COUNTY:

C. TYPE OF APPLICATION (Check one box only):

☐ 1. NEW SWFP and/or WDRS
☐ 2. REVISION OF SWFP and/or WDRS
☐ 3. EXEMPTION and/or WAIVER
☐ 4. PERMIT REVIEW
☐ 5. AMENDMENT OF APPLICATION
☐ 6. RFI/ROWD/JTD AMENDMENTS

Part 2. FACILITY DESCRIPTION

A. NAME OF FACILITY:

B. LOCATION OF FACILITY:
1. PHYSICAL ADDRESS OR LOCATION AND ZIP CODE:

2. LATITUDE AND LONGITUDE:

3. LEGAL DESCRIPTION OF PERMITTED BOUNDARY BY SECTION, TOWNSHIP, RANGE, BASE, AND MERIDIAN, IF SURVEYED:

C. TYPE OF ACTIVITY: (Check applicable boxes):

☐ 1. DISPOSAL
a. TYPE: _____
☐ 2. COMPOSTING
a. TYPE: _____
☐ 3. TRANSFORMATION
☐ 4. TRANSFER/PROCESSING FACILITY
☐ CHECK HERE IF RECYCLABLE MATERIALS ARE RECOVERED PRIOR TO TRANSFER/PROCESSING
☐ 5. OTHER (describe): _____

D. CONFORMANCE FINDING INFORMATION (CIWMP):

☐ 1. FACILITY IS IDENTIFIED IN (Check one):
☐ SITING ELEMENT DATE OF DOCUMENT _____ PAGE # _____
☐ NONDISPOSAL FACILITY ELEMENT DATE OF DOCUMENT _____ PAGE # _____

☐ 2. FACILITY IS NOT REQUIRED TO BE IDENTIFIED IN SITING ELEMENT OR NONDISPOSAL FACILITY ELEMENT

E. TYPE OF PERMITTED WASTES TO BE RECEIVED: (Check applicable boxes):

☐ 1. AGRICULTURAL
☐ 2. ASBESTOS ☐ Friable ☐ Non-friable
☐ 3. ASH
☐ 4. AUTO SHREDDER
☐ 5. COMPOSTABLE MATERIAL (describe): _____
☐ 6. CONSTRUCTION/DEMOLITION
☐ 7. CONTAMINATED SOILS
☐ 8. DEAD ANIMALS
☐ 9. INDUSTRIAL
☐ 10. INERT
☐ 11. LIQUIDS
☐ 12. MIXED/MUNICIPAL SOLID WASTE
☐ 13. SEWAGE SLUDGE
☐ 14. TIRES
☐ 15. OTHER (describe): _____

Part 3. FACILITY INFORMATION

A. PROPOSED CHANGE (Check applicable box(es)):

☐ 1. DESIGN (describe): _____

☐ 2. OPERATION (describe): _____

☐ 3. OWNER, OPERATOR, ADDRESS, AND/OR FACILITY NAME CHANGE (describe): _____

☐ 4. OTHER (describe): _____

B. FACILITY INFORMATION:

1. INFORMATION APPLICABLE TO ALL FACILITIES:

a. PEAK DAILY TONNAGE OR CUBIC YARDS _____

1) DISPOSAL/TRANSER (unit) _____

2) OTHER (unit) _____

b. DAILY DESIGN TONNAGE (TPD) _____

c. FACILITY SIZE (acres) _____

d. PEAK TRAFFIC VOLUME PER DAY (vpd) _____

e. DAYS AND HOURS OF OPERATION _____

2. ADDITIONAL INFO. REQUIRED FOR COMPOSTING FACILITIES ONLY:

a. SITE STORAGE CAPACITY (cu yds) _____

3. ADDITIONAL INFORMATION REQUIRED FOR LANDFILLS ONLY:

a. AVERAGE DAILY TONNAGE (TPD) _____

b. SITE CAPACITY CURRENTLY PERMITTED (Airspace) (cu yds) _____

c. SITE CAPACITY PROPOSED (Airspace) (cu yds) _____

d. SITE CAPACITY USED TO DATE (Airspace) (cu yds) _____

e. SITE CAPACITY REMAINING (Airspace) (cu yds) _____

f. DATE OF CAPACITY INFORMATION (Date) (See instructions): _____

g. LAST PHYSICAL SITE SURVEY (Date) _____

h. ESTIMATED CLOSURE DATE (month and year) _____

i. DISPOSAL FOOTPRINT (acres) _____

j. SITE CAPACITY PLANNED (cu yds) _____

k. 1. (i) IN-PLACE WASTE DENSITY (lbs of waste per cu yd of waste) _____
AND
(ii) WASTE-TO-COVER RATIO (Estimated) (v:v) _____
OR
2. AIRSPACE UTILIZATION FACTOR (tons of waste per cu yd of landfill airspace) _____

Part 4. SOURCE OF WATER SUPPLY (Check applicable boxes)

☐ A. MUNICIPAL OR UTILITY SERVICE: _____

☐ B. INDIVIDUAL (wells): _____

☐ C. SURFACE SUPPLY:

1. NAME OF STREAM, LAKE, ETC. _____

2. TYPE OF WATER RIGHTS:

☐ RIPARIAN ☐ APPROPRIATION

3. STATE PERMIT OR LICENSE NUMBER , IF APPLICABLE _____

Part 5. COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) (Check applicable boxes)

A. CHECK BOX(ES) IF ENVIRONMENTAL DOCUMENT WAS OR WILL BE PREPARED FOR THIS PROJECT AND PROVIDE THE STATE CLEARINGHOUSE NUMBER (SCH#)

☐ ENVIRONMENTAL IMPACT REPORT (EIR) SCH#_____

☐ NEGATIVE DECLARATION (ND)/MITIGATED NEGATIVE DECLARATION (MND) SCH#_____

☐ ADDENDUM TO (Identify environmental document)_____ SCH#_____

B. IF ENVIRONMENTAL DOCUMENT(S) WAS NOT PREPARED, PLEASE PROVIDE THE FOLLOWING INFORMATION

☐ CATEGORICAL/STATUTORY EXEMPTION (CE/SE)
EXEMPTION TYPE_____ GUIDELINE #_____

Part 6. LIST OF ATTACHMENTS (Fill in the date for each document checked)

A. REQUIRED WITH ALL APPLICATION SUBMITALS:

☐ RFI/JTD_____

☐ LOCAL USE/PLANNING PERMITS_____

☐ LOCATION MAP_____

☐ MITIGATION MONITORING INPLEMENTATION SCHEDULE_____

☐ ENVIRONMENTAL DOCUMENT(S):

- ☐ EIR_____
- ☐ MND/ND_____
- ☐ EXEMPTION_____
- ☐ ADDENDUM_____

B. ADDITIONAL REQUIRED DOCUMENTS FOR LANDFILLS ONLY:

☐ OPERATING LIABILITY FINANCIAL MECHANISM_____

☐ FINANCIAL RESPONSIBILITY DOCUMENTATION_____

☐ CLOSURE/POST CLOSURE MAINTENANCE PLAN

☐ PRELIMINARY ☐ FINAL_____

☐ LANDFILL CAPACITY SURVEY RESULTS (see instructions)_____

C. IF APPLICABLE:

☐ REPORT OF WASTE DISCHARGE_____

☐ CONTRACT AGREEMENTS_____

☐ STORMWATER PERMIT APPLICATION_____

☐ NPDES PERMIT APPLICATION_____

☐ VERIFICATION OF FIRE DISTRICT COMPLIANCE_____

☐ DEPT. OF HEALTH SERVICES PERMIT_____

☐ SWAT (Air and water)_____

☐ WETLANDS PERMITS_____

☐ OTHER_____

Part 7. OWNER INFORMATION (For disposal site, if operator is different from land owner, attach lease or other agreement)

TYPE OF BUSINESS:

☐ SOLE PROPRIETORSHIP ☐ PARTNERSHIP ☐ CORPORATION ☐ GOVERNMENT AGENCY

OWNER(S) OF LAND (Name):	SSN OR TAX ID #
ADDRESS, CITY, STATE, ZIP	TELEPHONE #:
	FAX #:
	E-MAIL ADDRESS:
	CONTACT PERSON (Print Name):

Part 8. OPERATOR INFORMATION (For disposal site, if operator is different from land owner, attach lease or other agreement)

TYPE OF BUSINESS:

☐ SOLE PROPRIETORSHIP ☐ PARTNERSHIP ☐ CORPORATION ☐ GOVERNMENT AGENCY

FACILITY OPERATOR(S)
(Name):

SSN OR TAX ID #:

ADDRESS, CITY, STATE, ZIP

TELEPHONE #:

FAX #:

E-MAIL ADDRESS:

CONTACT PERSON (Print Name):

ADDRESS WHERE LEGAL NOTICE MAY BE SERVED:

Part 9. SIGNATURE BLOCK

Owner:

I certify under penalty of perjury that the information I provided for this application and for any attachments is true and accurate to the best of my knowledge and belief. I am aware that the operator intends to operate a solid waste facility at the site specified above pursuant to this application and understand that I may be responsible for the site should the operator fail to meet applicable requirements.

SIGNATURE (LAND OWNER OR AGENT):

PRINTED NAME:

TITLE: DATE:

Operator:

I certify under penalty of perjury that the information contained in this application and all attachments are true and accurate to the best of my knowledge and belief.

SIGNATURE (FACILITY OPERATOR OR AGENT):

PRINTED NAME:

TITLE: DATE:

Part 10. OTHER (Attach additional sheets to explain any responses that need clarification).

NEW
INSTRUCTIONS FOR COMPLETING THE APPLICATION FOR SOLID WASTE FACILITY PERMIT/WASTE DISCHARGE REQUIREMENTS

This application form is for a Solid Waste Facility Permit (SWFP) and/or Waste Discharge Requirements (WDRs) to receive, store, process, transform, or dispose of solid waste regulated by the California Integrated Waste Management Board (CIWMB)/Local Enforcement Agency (LEA) and the California Regional Water Quality Control Boards (RWQCB). The application is to be used for both new and revised permits, and expansions. All applications must be filled out completely. Check with local or county enforcement agency for specific permit requirements and/or exemptions. This form and the filing fee should be sent to the appropriate agency(ies) indicated below:

FORM TYPE / USE	APPROPRIATE AGENCY	
Application for a Solid Waste Facility Permit	CIWMB/LEA	
Report of Waste Discharge / WDRs		RWQCB

If you have any questions on the completion of this form, please contact the appropriate agency(ies) for assistance. You can download this form from the CIWMB website at http://www.ciwmb.ca.gov/LEACentral.

For direct discharge (point source discharge) to surface waters, a different application form is required in place of this form. Please contact the appropriate Regional Water Quality Control Board for a National Pollutant Discharge Elimination System (NPDES) application form to apply for a permit for this type of discharge.

The Application for Solid Waste Facility Permit/Waste Discharge Requirements provides initial notice of a waste discharge. In most instances, additional information will be required, and should be submitted on 8 ½ "X 11" paper. Submit two copies of the completed form and of any required report(s), and filing fee to the Enforcement Agency (EA). Submit one copy of the form and any required report and filing fee to the RWQCB. The agency(ies) will advise you of any additional information that may be required to complete this application and waste disposal report.

You will be notified of the effective date of the application by each agency.

AMOUNT OF FILING FEES

- EA - The enforcement agencies shall determine the exact fee.
- RWQCB - Use flow or units reported in Part 4 (application form) and the appropriate class schedule A, B, B1, B3, or C (attached filing fee schedule).

FOR OFFICIAL USE ONLY (CIWMB/LEA/RWQCB staff)

SWIS Number: The Solid Waste Information System (SWIS) number assigned to the facility by CIWMB staff.
Filing Fee: The amount of filing fee submitted by the applicant.
Receipt Number: The number assigned to the application by CIWMB/LEA/RWQCB staff.
Date Received: The date the application package is received from the applicant (Title 27, section 21650(a)).
Date Accepted: The date the EA accepts application package for filing (Title 27, section 21650(a)).
Date Rejected: The date the EA determines that the application package is rejected (Title 27, section 21650(d)).
Date Acceptance of Incomplete Application: The date the EA accepts an application package as incomplete (Title 27, section 21580)
Due Date: 180 days from the date the application was accepted as incomplete (Title 27, section 21580).

Part 1. GENERAL INFORMATION

A. **Enforcement Agency**: Enter the name of the EA.
B. **County**: Enter the name of the county in which the facility is located.
C. **Type of Application**: Check the box (one box only) that describes the reason the application is being submitted.
   1. **New SWFP and/or WDRs**: A facility that does not have a current full SWFP or WDRs.
   2. **Revision of SWFP and/or WDRs**: Applicant is proposing to make a change to the design or operation of the facility.
   3. **Exemption and/or Waiver**: The facility is exempted from a full SWFP pursuant to Title 27, section 21565 and/or WDRs have been waived.
   4. **Review**: To comply with the five-year permit review requirement (Title 27, section 21640).
   5. **Amendment of Application**: If after the application package has been submitted and before issuance or denial of the permit or alteration thereof, the applicant changes any of the information required in the application package.
   6. **RFI/ROWD/JTD Amendments**: For existing permitted facilities, when an owner/operator proposes to make minor changes in design or operation supported by an existing or new CEQA documentation. The application package is submitted to the EA and/or RWQCB to determine if the proposed change(s) can be allowed without an application for a revision.

Part 2. FACILITY DESCRIPTION

A. **Name of Facility**: The name as it is to be listed on the SWFP and/or WDRs.
B. **Location of Facility**:
   1. The physical address of the facility or a description of the location. Include directions to the location of the facility and the name of the nearest city or named place, i.e. mountain, lake, cross roads, etc. Provide the zip code for the actual facility location, not the mailing address.
   2. Latitude and longitude is to be submitted in Degrees, Minutes, and Seconds, or Decimal Degrees. Use of a GPS instrument is recommended. It indicates the center of the waste foot print, existing or proposed, for disposal sites, and the office or gate for all other facilities (i.e. transfer, composting, etc.)
   3. Map or sketch should be to a scale adequate to show the precise location of the permitted boundary. Use of a portion of a U.S.G.S. Quadrangle map is recommended. Map must show proximity of disposal location to populated areas and must indicate all wells and drainage courses within 1,000 feet of any disposal point. The map must include approaches and/or access roads, streets, and/or highways. The legal description shall include the applicable portions of the section(s) of the township, range, base, and meridian. The facility shall have permanent monuments or other physical features that adequately delineate the permitted boundary in the field.
C. **Type Of Activity**: Check all that apply or will apply for the type of facility covered under this application package.
   1. **Disposal**: A facility that includes a place, location, tract of land, area, or premises in use, intended to be used, or which has been used, for landfill disposal of solid waste; and
      a. Type: The type of facility, such as, mono-fill, C&D/inert, municipal solid waste.
   2. **Composting**: a facility that is operated for the purpose of producing compost; and
      a. Type: The type of composting facility, e.g. green waste, food waste, biosolids, or MSW.
   3. **Transformation**: A facility that incinerates, pyrolysis, distillation, or biological conversion other than composting. Transformation does not include composting, gasification, or biomass conversion.
   4. **Transfer/Processing Facility**: A facility that receives, handles, separates, converts or otherwise processes materials in solid waste; and/or transfer solid waste directly from one container to another or from one vehicle to another for transport; and/or store solid waste. For Informational Purposes Only: Check the box if recyclable materials are recovered prior to transfer/processing.
   5. **Other**: An activity not listed above.
D. **Conformance Finding Information (CIWMP)**:
   1) If the location of the facility is identified in either a Countywide Siting Element or a Nondisposal Facility Element, check the appropriate box, fill in the date of the document and the page on which the facility is identified. If you do not currently have this information, you may obtain it from the jurisdiction in which the facility is located.
   2) If the facility is a Transfer Station that will divert less than 5% of the material that it receives, it is not required to be identified in either a Countywide Siting Element or a Nondisposal Facility Element and you should check the appropriate box.
E. **Type Of Permitted Wastes To Be Received**: Check all that apply for the type of material covered under this application package:
   1. **Agricultural**: Wastes resulting from the production and processing of farm or agricultural products, including manures, prunings, and crop residues.

2. **Asbestos**: A naturally occurring family of carcinogenic fibrous mineral substance. The State Department of Health Services has classified friable wastes which contain more than one percent asbestos by weight as hazardous wastes. Friable means that the material can be crumbled with pressure and, therefore, is likely to emit fibers. Indicate whether the asbestos is friable or non-friable.
3. **Ash**: The residue from the incineration of solid wastes, including municipal waste, infectious waste, woodwaste, sludge, and agricultural waste.
4. **Auto Shredder**: The "fluff" consisting of upholstery, paint, plastics, and other non-metallic substances that remains after the shredding of automobiles, discarded household major appliances, and sheet metal. The State Department of Health Services has classified untreated shredder wastes as hazardous.
5. **Compostable Material**: Any organic material that when accumulated will become active compost.
6. **Construction/Demolition Waste**: Waste that result from construction, remodeling, repair, demolition or deconstruction of buildings, and other structures.
7. **Contaminated Soil**: Waste which contains designated or nonhazardous concentrations and has been determined to be a waste that requires regulation by the RWQCB or Local Oversight Agency.
8. **Dead Animals**: Animal carcasses requiring disposal that have **not** been previously used for medical purposes or with known infectious diseases.
9. **Industrial**: Solid or semi-solid wastes resulting from industrial processes and manufacturing operations, e.g. cement kiln dust, ore process residues, grit or screenings removed from a waste water treatment facility, etc.
10. **Inert**: Solid waste and recyclable materials that are source separated or separated for reuse, do not contain hazardous waste or soluble pollutants at concentrations in excess of applicable water quality objectives and do not contain significant quantities of decomposable waste. Inert debris may not contain more than 1% putrescible wastes by volume calculated on a monthly basis and the putrescible wastes do not constitute a nuisance, as determined by the EA.
11. **Liquids**: Wastes which are not spadeable, usually containing less than 50% solids. These wastes include cannery and food processing wastes, landfill leachate and gas condensate, boiler blowdown water, grease trap pumpings, oil and geothermal field wastes, septic tank pumpings, rendering plant byproducts, some sewage sludge, etc.
12. **Mixed/ Municipal**: Residential and commercial refuse, garbage and/or rubbish. Residential waste is commonly thought of as household garbage, commercial wastes contain less putrescible waste and more paper and cardboard.
13. **Sewage Sludge**: Human (not industrial) residue, excluding grit or screenings, removed from a wastewater treatment facility or septic tank, whether in a dry or semidry form.
14. **Tires**: Discarded tire casings.
15. **Other**: Any allowable wastes not included in the above.

Part 3. FACILITY INFORMATION

A. **Proposed Change**: Check the box that identifies the type of change proposed. Briefly describe the proposed change in the space provided.
   1. **Design Change**: A design change would include but is not limited to: change in footprint, acreage, additional capacity, site improvements, etc.
   2. **Operation**: A change in operation would include but is not limited to: change in hours or days of operation, the addition of an activity, tonnage changes, etc.
   3. **Owner, Operator, Address, and/or Facility Name Change**: Complete if there is a change in the owner, operator, address, or facility name.
   4. **Other**: This type of change includes, but is not limited to: change in emergency contact list, etc. For an application for permit review, if there are no changes, so indicate.

B. **Facility Information**
   1. **Information Applicable To All Facilities**: This portion of Part 3 must be filled out by every applicant regardless of the type of facility.
      a. **Peak Daily Tonnage or Cubic Yards**: The peak (maximum) total amount of waste and material the facility is permitted to receive through the gate to store, process, transfer, or dispose per day. This amount shall be expressed in tons, if tonnage is not available or not applicable provide this in cubic yards with a conversion factor. This will be referred to as the "permitted maximum tonnage" and is considered the facility maximum tonnage limit. Must be consistent with the Report of Facility Information (RFI) and any California Environmental Quality Act (CEQA) existing compliance documentation and/or within the scope of the analysis in a CEQA review, if any, that was being

conducted at the time the application was submitted. Volume figures should be converted to tons and the conversion factor should be documented in the accompanying RFI.

1. **Disposal/Transfer**: The amount of material that comes through the gate and is disposed of on-site or transferred off site as waste; and
2. **Other**: That amount of material that is recycled or used for beneficial use such as ADC or other on-site projects. Note: 1 and 2 should equal the peak daily tonnage or cubic yards.

b. **Daily Design Tonnage (TPD)**: For landfills, the maximum daily tonnage of waste and material that the facility is designed to receive based on appropriate factors including, but not limited to, size of working face, vehicle traffic considerations, hours of operation, etc. For other facilities, it is the maximum amount of waste and material the facility is designed to handle at any one-time based on appropriate factors including, but not limited to, vehicle traffic consideration, hours of operations, length of material storage, equipment movement, etc. Design tonnage may be equal to or greater than the peak daily tonnage.

c. **Facility Size**: The area that encompasses the entire area on which solid waste facility activities occur and are permitted. The area of the facility in acres to be used for receiving, storing, processing, disposing of wastes, and equipment management area, or any area that is required to maintain compliance with the design and operating parameters of the facility. The facility size is the same as "operating area" for composting facilities, "permitted acreage" or "permitted boundaries" for transfer/processing facilities and landfills.

d. **Peak Traffic Volume Per Day (vpd)**: The estimated maximum number of vehicles that will enter the facility on a daily basis. This number should include not only waste vehicles, but all vehicles, laden or empty, entering the facility gate, including personnel vehicles and vehicles transporting cover material. This number must be consistent with the RFI and any CEQA existing compliance documentation and/or within the scope of the analysis in a CEQA review, if any, that was being conducted at the time the application was submitted.

e. **Days and Hours of Operation**: The days and hours that the facility is in operation and the hours of waste receipt if different from the hours of operation. This information must be consistent with the RFI and any CEQA existing compliance documentation and/or within the scope of the analysis in a CEQA review, if any, that was being conducted at the time the application was submitted. Any activities that are limited to prescribed days and/or hours should be fully described in the RFI.

2. **Additional Information Required For Composting Facilities Only**: This portion of Part 3, section B2, in addition to Part 3, section B1, must be filled out by the applicant if composting is part of this application.

a. **Site Storage Capacity**: The total capacity of all feedstock and compost (active, curing, and cured) that can be stored on-site at any one time.

3. **Additional Information Required For Landfills Only**: This portion of Part 3, section B3, in addition to Part 3, section B1, must be filled out by the applicant if a landfill is part of this application. All sections of the application must be filled out completely.

a. **Average Daily Tonnage (TPD)**: The estimated average waste tonnage expected to be received for each operating day on a yearly basis (calendar year) for the next five years. Do not use non-operating days in estimated/calculating the average daily tonnage. This average daily tonnage can be equal to but may not exceed the peak daily tonnage. Report as tons per day (TPD).

b. **Site Capacity Currently Permitted (Airspace) (cu yds)**: The volume contained between the excavation plan surface and the final fill plan surface (i.e., from the bottom of the excavation to the top of the final cover) taking into consideration design slopes, benches, and other design features, as authorized by the current SWFP. Site Capacity means the same as Total Site Capacity or Gross Site Capacity.

c. **Site Capacity Proposed (Airspace) (cu yds)**: Additional site capacity (airspace) requested or potentially resulting from this permit application.

d. **Site Capacity Used To Date (Airspace) (cu yds)**: The volume of permitted site capacity used to date. See Date of Capacity Information below.

e. **Site Capacity Remaining (Airspace) (cu yds)**: The total volume of permitted site capacity remaining, not including any proposed site capacity. If the remaining capacity information provided is based on estimates of capacity used since the last physical site survey, please explain the methodology used in preparing the estimates, e.g., weight-to-volume conversion, in-truck volume, etc. See Date of Capacity information below.

f. **Date Of Capacity Information (date)**: The date as of which the remaining and used site capacities in Part 3 were determined. This date may predate the application date by no more than three months. Amendments of the application including more current capacities may be required.

g. **Last Physical Site Survey (date)**: Date when the last aerial or ground survey was conducted upon which the capacity information presented in Part 3 is based in whole or in part. (see Part 6, Section B for more details).

h. **Estimated Closure Date (month and year)**: The closure date estimated based on remaining waste capacity, average disposal volume, waste-to-cover ratio, days of operation, and other appropriate factors. Please note if the closure date is controlled by factors other than waste capacity (e.g., conditional use permit date, etc.)

i. **Disposal Footprint (acres)**: The permitted area where waste will be or has been placed. This will be referred to as "permitted disposal area".

j. **Site Capacity Planned (cu yds)**: The estimated additional site capacity (in cubic yards) based upon any planned expansions not currently proposed, whether within or outside the current permitted boundary.

k. One of the following:

1. (i) **In-place Waste Density (lbs of waste per cubic yard of waste)**. The in-place waste density is the estimated or measured density of in-place waste material achieved by mechanical or other means in the development of the current lift of the current operating waste cell, and

(ii) **Waste-to-Cover Ratio (estimated) (volume:volume)**. The waste-to-cover ratio estimate is a unit-less expression of the proportion of the volumes of waste and cover that comprise a volume of compacted fill material, e.g. 4:1. The cover portion of the waste-to-cover ratio estimate should include only soil or approved daily or intermediate alternative cover that is not considered a waste material, i.e., payment of fees to the CIWMB is not required. The waste portion of the waste-to-cover ratio estimate should include only waste material for which payment of fees to the CIWMB is reported, or

2. **Airspace Utilization Factor (tons of waste per cubic yard of landfill airspace)**. The airspace utilization factor (AUF) is the effective density of waste material in the landfill. The AUF is recorded as the total weight of waste material passing over the landfill scales that is placed in a known volume of landfill airspace in a given period of time. The waste portion of the AUF should include only waste material for which payment of fees to the CIWMB is reported.

Part 4. SOURCE OF WATER SUPPLY (This is water used for any purpose at the facility)

A. **Municipal or Utility Service**: Give name and address of the water purveyor.
B. **Individual Wells**: Identify those wells that are not part of a municipal or utility service.
C. **Surface Supply**:
1. Provide the name of any stream, lake, spring, etc, if identified.
2. Type of water rights: Check appropriate box to indicate riparian or appropriation.
3. If a state permit or license has been granted, give identification number.

Part 5. COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

A. Check the appropriate box if an environmental document was, or is going to be, prepared and circulated through State Clearinghouse (SCH) to comply with the requirements of CEQA.
- If an environmental document has already been prepared and circulated through the SCH and there is an SCH number, please write this number in the appropriate blank following the box that is checked.
- If an environmental document has not yet been circulated through the SCH and no SCH number has been assigned to the environmental document yet, please check the box for the type of environmental document that is anticipated to be prepared and circulated through the SCH and write N/A in the appropriate blank for "SCH#."
- If the "ADDENDUM TO (Identify environmental document)" box is checked, please provide the type of environmental document that the addendum was prepared for along with the SCH number.
EXAMPLE ONLY:
If the environmental document is an environmental impact report (EIR), write "EIR" and include the dates that the EIR was circulated (i.e. from what date to what date). Also, please provide the SCH number for the EIR.

B. If an environmental document was not, and is not planned to be, prepared because it is not required to comply with the requirements of CEQA, please provide the requested information by checking the appropriate box to indicate why an environmental document is not required for CEQA.
- If the "CATEGORICAL/STATUTORY EXEMPTION (CE/SE)" box is checked, please provide the CEQA Guidelines *Section number and citation for the exemption.*

EXAMPLE ONLY:
A class I categorical exemption from the requirements of CEQA might be cited in the case of a minor repair to an existing facility. Therefore, check the box that says "CATEGORICAL/STATUTORY EXEMPTION (CE/SE)" and write the following in the blank after the box: "CEQA Guidelines, Section 15301, Class I Categorical Exemption."

Part 6. LIST OF ATTACHMENTS (Fill in the date for each document checked)

A. Section A of Part 6 must be completed by all applicants regardless of the type of facility.
B. Section B of Part 6 is additional documents required by landfill applicants only.

- Operating Liability Financial Mechanism: The date the demonstration was last modified or renewed. For example, a Certificate of Insurance (CIWMB 07) has an "effective date" identified on the certificate. This date should be within the preceding twelve-month (annual renewal) period.
- Financial Responsibility Documentation: The financial mechanism will be a document, (i.e., letter of credit, surety bond, trust fund statement of value, enterprise fund value (balance) statement, etc.) identifying the current dollar value of the demonstration and the date of the stated value. The date should be within the preceding twelve-month (annual renewal) period.
- Closure/Post Closure Maintenance Plan: The closure and postclosure maintenance plans are those plans required by Sections 21780 and 21865 as appropriate.

Landfill Capacity Survey Results: For disposal sites permitted for more than 20 tons per day, a ground or aerial survey is to be prepared at least every five years or more frequently as determined by the enforcement agency. For disposal sites permitted for 20 tons per day or less, a ground or aerial survey must be prepared at least once every ten years. If not previously submitted, survey results must be included with this application. Survey results must be submitted as a CADD or vector graphics data file including at least two strata, i.e., 1) a stratum showing the base and finished ground surfaces, and 2) a stratum showing the existing and finished ground surfaces. For disposal sites where a change in permitted volume is proposed, a third stratum showing the base and proposed finished ground surfaces must be included. For each stratum the following information shall be included: site name, stratum name, surface1 name, surface2 name, volume calculation method (grid, composite, section), expansion (cut) factor, compaction (fill) factor, cut volume, fill volume and net volume. All volumes shall be reported in cubic yards. (Title 27, section 21570(f)(10)). If the base ground surface is uncertain, the operator is allowed to provide the best available information as a substitute for the actual as-built contours. If selecting this substitute method, the operator must provide an explanation of the basis for using the substitute base ground surface.
For the purposes of this section the following definitions apply:

A. "base ground surface" - the best available excavation plan surface that existed prior to the placement of any waste;
B. "CADD" -computer aided design and drafting;
C. "compaction (fill) factor" - the factor used to correct for expected compaction of fill material; this factor should normally be unity (one); if the factor is not unity (one), an explanation must be provided for the basis of the volumetric correction;
D. "cut volume" - for any stratum, the volume removed by a cut of a lower surface to achieve the upper surface;
E. "existing ground surface" - the topography that exists at the time of the subject survey;
F. "expansion (cut) factor" - the factor used to correct for expected expansion of a cut surface; this factor should normally be unity (one); if the factor is not unity (one), an explanation must be provided for the basis of the volumetric correction;
G. "fill volume" - for any stratum, the volume bound between the upper and lower surfaces;
H. "finished ground surface" - the final fill plan surface as shown in the approved closure plan for the disposal site;
I. "net volume" - the fill volume less the cut volume;
J. "site name" - the name of the disposal site for which the survey information is being submitted;
K. "stratum (plural: strata)" - a particular volume of a solid waste landfill bound by specified upper and lower surfaces;
L. "stratum name" - a descriptive name for the stratum for which volumetric information is being submitted, e.g., total volume including proposed expansion;
M. "surface names" - names for the pair of surfaces that define a named stratum, e.g., base ground surface and proposed finished ground surface;
N. "survey" -a comprehensive examination of the disposal site under the direction of registered civil engineer or licensed land surveyor for purposes of determining the topography of the base, existing and finished ground surfaces, and the volumes bound by those surfaces;

O. "vector graphics" - computer generated images comprised of lines and shapes of given origin, direction, thickness, color and other attributes;
P. "volume calculation method" - grid, composite, section or other method approved by the enforcement agency;

C. Section C of Part 6 is additional documents required only if applicable for the type of facility to be covered under this application. Other: List any other document not included above, such as, if the operator is different from landowner, attach lease or franchise agreement documenting operator's interest in real property. Another example would be if there is a contract operator then a copy of the contract between the permitted operator and contract operator and etc.

Part 7. OWNER INFORMATION:

Type of Business: Specify if the business is a sole proprietorship, partnership, corporation, or government agency.
Owner of Land: The person(s) that owns, in whole or in part, the land on which the facility is located.
Address, City, State, Zip: Provide the address, city, state, and zip code for the facility owner(s).
SSN or Tax ID #: Provide the SSN or tax identification number for the land owner(s).
Telephone #, Contact Person, Fax #, and E-mail Address: Provide the telephone number, fax #, and e-mail address, and print the contact name.
Address Where Legal Notice May Be Served: Provide an address where legal notice may be served.

Part 8. OPERATOR INFORMATION:

Type of Business: Specify if the business is a sole proprietorship, partnership, corporation, or government agency.
Facility Operator: The person(s) to whom the approval to operate the facility is granted, and is responsible for the overall operation of the facility including but not limited to, complying with regulatory requirements, complying with all applicable federal, state, and local requirements, and the design, construction, and physical operation of the operating area, and control the activities at an facility.
Address, City, State, Zip: Provide the address, city, state, and zip code for the facility operator(s).
SSN or Tax ID #: Provide the SSN or tax identification number for the operator(s).
Telephone #, Contact Person, Fax #, and E-mail Address: Provide the telephone number, fax #, and e-mail address, and print the contact name.
Address Where Legal Notice May Be Served: Provide an address where legal notice may be served.

Part 9. SIGNATURE BLOCK:

Signature (landowner or agent): The person(s) or their agent authorized to sign on behalf of the above owner.
Signature (facility operator or agent): The person(s) or their agent authorized to sign on behalf of the operator above.

Part 10. OTHER:

Attach additional sheets to explain any responses that need clarification.

HISTORY

1. Editorial correction adding inadvertently omitted Appendix 2 (Register 97, No. 50).
2. Repealer and new appendix (form CIWMB E-1-77) filed 12-13-2004; operative 1-1-2005 pursuant to Government Code section 11343.4(c) (Register 2004, No. 51).

Appendix 2

Sample Index for Joint Technical Document

[Temporary Note: The Index for the JTD is provided as a sample. This sample Index has no regulatory effect and is not considered as part of the rulemaking.]

Revised 4/97

Joint Technical Document Index
CIWMB Requirements

CIWMB JTD Requirements	*CIWMB Section No.*	*SWRCB Section No.*	*JTD Page(s)*
General			
Name of facility, site's operator and owner	21600(1)(A)		
Description of the operation cycle	21600(1)(A)		
Site Plan including boundaries, acreage, and buffer zones	21600(1)(B)		
Hours of operation	21600(1)(C)		
Waste Classification and Management			
Waste and Quantities of Waste	21600(2)(A)	21740(a)(1)	
Waste Management Unit Classification and Siting			
Airport Safety	21600(3)(A)		
Volumetric Capacity	21600(3)(B)		
Site Life Estimate	21600(3)(C)		
Site Location (*vacinity map*)	21600(3)(D)		
Surrounding Land Use and Zoning (*plot plan*)	21600(3)(E)	21750(h)4	
Ancillary Facilities (*include on plot plan*)	21600(3)(F)		
Design and Construction Standards for All Waste Management Units.			
Design Responsibility *[describe how the site design provides for the surrounding physical setting]*	21600(4)(A)	21750(a–h)	
Design Responsibility *[new disposal sites shall be designed under a civil engineer]*	21600(4)(B)		
Public Health Design Parameters for Landfills *[the designed to minimize the propagation or harbor of flies, rodents or vectors. The design should consider environmental control in 21600(8)]*	21600(4)(C)		
Construction Sequencing Plans *[Provide a five year development plan]*	21600(5)(D)		
Grading Plan *[Include existing and proposed final contours for disposal area and borrow area]*	21600(5)(E)		
Gas Management Plan *[Demonstrate the ability to comply with following:]*	21600(5)(F)		

[The next page is 699.]

Revised 4/97

CIWMB Requirements

CIWMB JTD Requirements	*CIWMB Section No.*	*SWRCB Section No.*	*JTD Page(s)*
Operating Criteria			
Disposal Site Records	21600(5)(A)		
Site Security	21600(5)(B)		
Sanitary Facility	21600(5)(C)		
Potable Water	21600(5)(D)		
Communication System	21600(5)(E)		
Lighting *[for facilities which operate in the dark]*	21600(5)(F)		
Safety Equipment	21600(5)(G)		
Personnel Requirements	21600(5)(H)		
Personnel Training	21600(5)(I)		
Supervisory Structure	21600(5)(J)		
Spreading and Compacting	21600(5)(K)		
Cover			
Cover Materials	21600(6)(A)		
Cover Frequency	21600(6)(B)		
Intermediate Cover	21600(6)(C)		
Handling			
Savaging Activities	21600(7)(A)		
Volume Reduction Activities	21600(7)(B)		
Equipment	21600(7)(C)		
Special Waste Handling	21600(7)(D)	21740(a)(1)	
Environmental Controls			
Nuisance	21600(8)(A)		
Fire Control	21600(8)(B)		
Leachate Control *(for purposes of public health)*	21600(8)(C)		
Dust Control	21600(8)(D)		
Vector Control	21600(8)(E)		
Drainage & Erosion Control	21600(8)(F)		
Litter Control	21600(8)(G)		
Noise Control	21600(8)(H)		
Traffic Control *(within the facility)*	21600(8)(J)		
Hazardous Waste/Loadchecking	21600(8)(K)		
Liquid Waste *(handling of Liquid Waste)*		21740(a)(1)	

HISTORY

1. Editorial correction adding inadvertently omitted Appendix 2 (Register 97, No. 50).

Appendix 3

Financial Assurances Forms

Table of Contents

1.	CIWMB 100	Trust Agreement
2.	CIWMB 101	Irrevocable Letter of Credit
3.	CIWMB 102(a)	Performance Bond for Closure
4.	CIWMB 102(b)	Performance Bond for Postclosure
5.	CIWMB 102(c)	Performance Bond for Corrective Action
6.	CIWMB 103(a)	Financial Guarantee Bond for Closure Costs
7.	CIWMB 103(b)	Financial Guarantee Bond for Postclosure Costs
8.	CIWMB 103(c)	Financial Guarantee Bond for corrective Action Costs
9.	CIWMB 104	Letter from the Chief Financial Officer Financial Means Test for Postclosure Maintenance and/or Operating Liability
10.	CIWMB 105	Guarantee
11.	CIWMB 106	Certificate of Insurance for Closure/Postclosure Maintenance Reasonably Foreseeable Corrective Action
12.	CIWMB 107	Certificate of Liability Insurance
13.	CIWMB 108	Liability Insurance Endorsement
14.	CIWMB 109	Certificate of Self–Insurance and Risk Management
15.	CIWMB 110	Operator Certification of Comprehensive General Liability Insurance Coverage and Establishment and Funding of the Environmental Liability Fund
16.	CIWMB 111	Environmental Liability Fund Agreement

State of California California Integrated Waste Management Board

TRUST AGREEMENT

Trust Account Number:_____

This Agreement is entered into as of_____ by and between:
(Date)

GRANTOR	TRUSTEE
Operator Name:	Trustee Name:
Address:	Address: Phone Number:
☐ Corporation ☐ Association ☐ Partnership ☐ Proprietorship In the State of _____	☐ Incorporated in the State of _____ ☐ A National Bank

TERMS OF AGREEMENT

WHEREAS, the California Integrated Waste Management Board (CIWMB) has established regulations applicable to the Grantor in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, requiring that an operator of a solid waste disposal facility shall provide assurance that funds will be available when needed for closure and/or postclosure maintenance and/or corrective action and/or third party operating liability claims of the facility, and

WHEREAS, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facilities identified herein, and

WHEREAS, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

NOW THEREFORE, the Grantor and Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

(c) The term "CIWMB" means State of California, Integrated Waste Management Board or its designee.

(d) The term "Beneficiary" means the CIWMB or any third party claimants who satisfy the requirements either of Section 4(a) or 4(b) of this Agreement.

Section 2. Identification of Facilities Cost Estimates and Coverage Amounts. This Agreement pertains to the facilities, cost estimates, and determination of primary or excess coverage identified on attached Schedule A (for each facility identified in Schedule A, list the solid waste information system number, name, address, the current closure and/or postclosure cost estimates and/or corrective action cost estimates and/or operating liability coverage (indicate the closure and postclosure amounts and corrective action and operating liability coverage amounts separately), or portions thereof for which financial assurance is demonstrated by this Agreement).

Section 3. Establishment of Fund for Closure and/or Postclosure and/or Corrective Action and/or operating liability. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of CIWMB. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the CIWMB.

Section 3a. Establishment of Fund for Operating Liability. The Grantor and the Trustee hereby establish a trust fund, hereinafter the "Fund" for the benefit of any and all third parties injured or damaged by accidental occurrences arising from operation of the facility(ies) covered by this trust agreement, in the amounts of _____per occurrence and _____annual aggregate for accidental occurrences, except that the Fund is not established for the benefit of third parties for the following:

(a) "Bodily injury" or "property damage" expected or intended from the standpoint of the Grantor. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

(b) "Bodily injury" or "property damage" for which the Grantor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the Grantor would be obligated to pay in the absence of the contract or agreement.

(c) Any obligation of the Grantor under a workers' compensation, disability benefits, or unemployment compensation law or any similar law.

(d) "Bodily injury" to:

(1) An employee of the Grantor arising from, and in the course of, employment by the Grantor; or

(2) The spouse, child, parent, brother, or sister of an employee as a consequence of (1) above.

This exclusion applies:

(1) Whether the Grantor may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay another person who must pay damages because of the injury.

(e) "Bodily injury" or "property damage" arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, "auto", or watercraft owned or operated by or rented or loaned to the Grantor. Use includes operation and loading and unloading. This exclusion does not apply to:

(1) Parking an "auto" on, or on the ways next to, premises the Grantor owns or rents, provided the "auto" is not owned by or rented or loaned to the Grantor.

(2) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in paragraph (F)2. or (F)3. of the definition of "mobile equipment" (27 CCR, Division 2, Subdivision 1, Chapter 6).

(f) "Property damage" to:

(1) Any property owned, rented, or occupied by the Grantor;

(2) Premises that are sold, given away, or abandoned by the Grantor if the "property damage" arises out of any part of those premises;

(3) Property loaned to the Grantor;

(4) Personal property in the care, custody, or control of the Grantor;

(5) That particular part of real property on which the Grantor or any contractors or subcontractors working directly or indirectly on behalf of the Grantor are performing operations, if the "property damage" arises out of these operations; or

(6) That particular part of any property that must be restored, repaired or replaced because the Grantor's work was incorrectly performed on it.

Section 4. Payment for Closure and/or Postclosure Maintenance and/or Corrective Action. The Trustee shall make payments from the Fund as the CIWMB shall direct, in writing, to provide for the payment of the costs of closure and/or postclosure maintenance and/or corrective action of the facilities covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the CIWMB from the Fund for closure and/or postclosure and/or corrective action expenditures in such amounts as the CIWMB shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the CIWMB specifies in writing. Upon refund, such funds shall not constitute part of the Fund as defined herein.

Section 4a. Payment for Bodily Injury or Property Damage. The Trustee shall satisfy a third party liability claim by making payments from the Fund only on receipt of one of the following documents:

(a) Certification from the Grantor and the Beneficiary that the liability claim should be paid. The certification must be worded as follows:

CERTIFICATION OF VALID CLAIM

The undersigned, as parties [Grantor] and [Name and Address of Beneficiary(ies)], hereby certify that the claim of bodily injury and/or property damage caused by an accidental occurrence arising from the operation of [Grantor's] solid waste facility should be paid in the amount of $ _____

_____	_____	___/___/___
Grantor's Signature	Notary	Date
_____	_____	___/___/___
Claimant(s) Signature	Notary	Date

(b) A valid final court order establishing a judgment against the grantor for bodily injury or property damage caused by accidental occurrences arising from the operation of the Grantor's facility or group of facilities.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines that the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his or her duties with respect to the trust fund solely in the interest of the CIWMB and with the care, skill, prudence and diligence under the circumstances then prevailing that persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(i) Securities or other obligations of the Grantor, or any other operator or owner of the landfills, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or State Government.

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State Government; and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one that may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depositary even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depositary with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State Government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and the CIWMB a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and to the CIWMB shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting on the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If, for any reason, the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, CIWMB, and the present Trustee by certified mail ten days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the CIWMB to the Trustee shall be in writing, signed by the CIWMB designees, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the CIWMB hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or CIWMB, except as provided for herein.

Section 15. Notice of Nonpayment. The Trustee shall notify the Grantor, and CIWMB, by either registered or certified mail, within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 15a. Notice of Nonpayment. If a payment for bodily injury or property damage is made under Section 4a of this trust, the Trustee shall notify the Grantor of such payment and the amount(s) thereof within five (5) working days. The Grantor shall, within one year of such payment, either make payments to the trustee in amounts sufficient to cause the trust to return to its value immediately prior to the payment of claims under Section 4a, or shall provide written proof to the Trustee that other financial assurance for operating liability coverage has been obtained equaling the amount necessary to return the trust to its value prior to the payment of claims. If the Grantor does not either make payments to the Trustee or provide the Trustee with such proof, the Trustee shall, within 10 working days after the anniversary date of the payment, provide a written notice of nonpayment to the CIWMB.

Section 16. Amendment of Agreement. This agreement may be amended by an instrument in writing executed by the Grantor, Trustee, and CIWMB, or by the Trustee and CIWMB if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the CIWMB, or by the Trustee and the CIWMB, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor. The CIWMB will agree to termination of the trust when the operator substitutes alternate financial assurance or is released as specified in 27 CCR, Division 2, Subdivision 1, Chapter 6.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the CIWMB issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act in conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of California.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify and sign under the laws of the State of California that the information in this document is true and correct to the best of his or her knowledge, and is being executed in accordance with the requirements of 27 CCR, Division 2, Subdivision 1, Chapter 6.

<table>
<tr><td>Signature of Grantor:</td><td>Title:</td></tr>
<tr><td>Typed or Printed Name of Person Signing:</td><td rowspan="2">Seal:</td></tr>
<tr><td>Attest: Title</td></tr>
<tr><td>Signature of Trustee:</td><td>Title:</td></tr>
<tr><td>Typed or Printed Name of Person Signing:</td><td rowspan="2">Seal:</td></tr>
<tr><td>Attest: Title</td></tr>
</table>

PRIVACY STATEMENT

The Information Practices Act (California Civil Code Section 1798.17) and the Federal Privacy Act (5 U.S.C. 552a(e)(3)) require that this notice be provided when collecting personal information from individuals.

AGENCY REQUESTING INFORMATION: California Integrated Waste Management Board.

UNIT RESPONSIBLE FOR MAINTENANCE OF FORM: Financial Assurances Section, California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025. Contact the Manager, Financial Assurances Section, at (916) 341-6000.

AUTHORITY: Public Resources Code section 43600 et seq.

PURPOSE: The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed.

REQUIREMENT: Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.

OTHER INFORMATION: After review of this document, you may be requested to provide additional information regarding the acceptability of this mechanism.

ACCESS: Information provided in this form may be provided to the U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Department of Toxic Substances Control, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025, (916) 341-6000.

EXHIBIT A

TRUST AGREEMENT BY AND BETWEEN _____

AND THE _____

As provided for in Section 14 of the Trust Agreement, the persons, other than the officials of the CIWMB identified in Section 14 of the Trust Agreement, who, until this Exhibit A is amended, shall have the authority to make orders, requests, and instructions to the Trustee are:

Officials of the Grantor.

Officials of the Grantor who have authority to give instructions are:

Name: _____

Title: _____

EXHIBIT A

Any orders, requests or instructions by the Grantor to the Trustee, pursuant to the foregoing Agreement, may be signed by any one or more of the following persons:

Name: _____

Title: _____

TRUST AGREEMENT/DEPOSITORY TRUST

SCHEDULE A

This Agreement demonstrates financial assurance for the following cost estimate(s) and/or operating liability for the following facility(ies):

Solid Waste Information System Number	Name of Facility(ies)	Address of Facility(ies)	Cost Estimates and or operating liability coverage For Which Financial Assurance is Being Demonstrated by This Agreement
			Closure: _____ Postclosure: _____ Corrective Action: _____ Per Occurrence: _____ Annual Aggregate: _____ Total: _____

The cost estimates listed here were last adjusted on _____
Date

TRUST AGREEMENT (ONLY)

SCHEDULE B

The fund is established initially as consisting of the following:

$ _____ (Spell out dollar amount) _____

as evidenced by _____ (Name of institution drawn on)

Check Number _____.

Dated _____

I hereby certify that funds have been received and deposited.

Authorized Signature:	Title:
Typed or Printed Name of Person Signing:	Address: Phone Number of Person Signing:

DEPOSITORY TRUST AGREEMENT (ONLY)

SCHEDULE B

List of Property Comprising Trust Fund

None at the time of trust establishment. Funding of this Depository Trust Agreement is contingent upon drafts against that primary,

_____ (Surety Bond or Letter of Credit) number _____ and issued by the _____ (Issuing Institution) on _____ (Date)

in accordance with the terms of that _____ (Surety Bond or Letter of Credit)

State of California California Integrated Waste Management Board

IRREVOCABLE LETTER OF CREDIT

(The Letter of Credit as specified in, California Code of Regulations shall preferably be on Bank Safety Paper and shall be worded as follows:)

Date_____

Letter of Credit No._____

Executive Director
California Integrated Waste Management Board
1001 I Street
P.O. Box 4025
Sacramento, CA 95812-4025

Attention:

Dear Sir or Madam:

We hereby establish our Irrevocable Letter of Credit in your favor, at the request and for the account of

_____(Operator's name)_____(address)_____ in the aggregate

amount of $_____ , _____(Spell out amount in United States dollars) available upon presentation by you of:

(1) Your sight draft(s) on us bearing reference to this Letter of Credit No._____ and

(2) Your signed and dated statement reading as follows:

"We certify that the amount of our draft drawn under _____(Name of issuing institution) Letter of Credit No._____ is payable pursuant to regulations issued under authority of the California Solid Waste Management Act of 1989.

Partial drawings are permitted.

Each draft must be marked "Drawn under _____(Name of issuing institution)

Letter of Credit No._____ dated _____."

Each draft must also be accompanied by the original of this Letter of Credit upon which we may endorse our payment.

We hereby agree with you that each draft drawn and presented to us at our above office in _____(City/State) in compliance with the terms of the Letter of Credit shall be duly honored upon presentation to us, and we shall deposit the amount of the draft directly in to the depository trust fund of _____(Operator)_____ in accordance with your instructions. We also hereby agree to establish a depository trust fund in accordance with your instructions if the operator fails to establish a depository trust fund when required to do so under Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

Special instructions:

This Letter of Credit is valid until _____ and shall thereafter be automatically renewed for a one-year period upon such date and upon each successive anniversary of such date, unless at least one hundred twenty (120) days prior to such expiration date or each successive anniversary of such date we notify you and the operator, in writing by either registered or certified mail that we elect not to renew the Letter of Credit for such additional period. In the event of such notification, any unused portion of the credit shall be available upon presentation to us of your clean sight draft on or before the then current expiration date.

This credit is subject to _____ (The most recent edition of the Uniform Customs and Practices for Documentary Credits,

_____ Published by the International Chamber of Commerce, or "The Uniform Commercial Code.")

(Signature(s) of Official(s) of Issuing Institution)

(Title(s) of Official(s) of Issuing Institution)

(Address of Official(s) of Issuing Institution)

(Phone Number of Official(s) of Issuing Institution)

(Date Official(s) of Issuing Institution Signs)

PRIVACY STATEMENT

The Information Practices Act (California Civil Code Section 1798.17) and the Federal Privacy Act (5 U.S.C. 552a(e)(3)) require that this notice be provided when collecting personal information from individuals.

AGENCY REQUESTING INFORMATION: California Integrated Waste Management Board.

UNIT RESPONSIBLE FOR MAINTENANCE OF FORM: Financial Assurances Section, California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025. Contact the Manager, Financial Assurances Section, at (916) 341-6000.

AUTHORITY: Public Resources Code section 43600 et seq.

PURPOSE: The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed. REQUIREMENT: Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.

OTHER INFORMATION: After review of this document, you may be requested to provide additional information regarding the acceptability of this mechanism.

ACCESS: Information provided in this form may be provided to the U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Department of Toxic Substances Control, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025, (916) 341-6000.

State of California California Integrated Waste Management Board

PERFORMANCE BOND FOR CLOSURE

Principal Name:

Address:

Type of Organization: ☐ Joint Venture ☐ Individual ☐ Partnership ☐ Corporation | State of Incorporation:

Bond Number:	Date Executed:	Effective Date:	Total Penal Sum:

Surety Name:

Surety Business Address:

SOLID WASTE Facility(ies) COVERED

(All amounts must total penal amounts.)

If additional space needed, add attachment.

Name of Facility(ies)	Address	Solid Waste Information System Number	Closure Amount
			Total

KNOW ALL PERSONS BY THESE PRESENTS, THAT WE, the Principal and Surety(ies) hereto are firmly bound to the California Integrated Waste Management Board (hereinafter called CIWMB), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS said Principal is required, under state regulations, to have a permit in order to operate each solid waste facility(ies) identified above, and

WHEREAS, said Principal is required to provide financial assurance for closure, as a condition of the permit, and

WHEREAS said Principal shall establish a depository trust fund as may be required under Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6 when a surety bond is used to provide such financial assurance;

NOW THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of each facility for which this bond guarantees closure. In accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended.

OR, if the Principal shall provide alternate financial assurance as applicable, within 60 days after the date notice of cancellation is received by the Principal, and CIWMB from the Surety(ies), then this obligation shall be null and void otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by CIWMB that the Principal has been found in violation of applicable closure requirements for a facility for which this bond guarantees performances of closure, the Surety(ies) shall either perform closure in accordance with the closure plan and other permit requirements; or place the closure amount guaranteed for the facility(ies) into the depository trust fund established by the Principal or, if the Principal fails to establish a depository trust fund, established by the Surety(ies), as directed by CIWMB.

Upon notification by CIWMB that the Principal has failed to provide alternate financial assurance as required, during the 60 days following receipt by the Principal, and CIWMB of a notice of cancellation of the bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the depository trust fund as directed by CIWMB.

PROVIDED, however the obligation of the surety shall be only for the closure cost estimate certified by a registered civil engineer, according to Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6 and identified as the total penal sum on the face of this bond.

The obligation of the Surety(ies) shall not include costs for operating liability as defined in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6 or costs for corrective action as defined in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, Article 4.

The Surety(ies) hereby waive(s) notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by either registered or certified mail to the Principal, and CIWMB, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the Principal and CIWMB, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization from CIWMB for termination of the bond.

The following paragraph is an optional rider that may be included, but is not required.

Principal and Surety(ies) hereby AGREE ☐ DO NOT AGREE ☐ to adjust the penal sum of the bond yearly so that it guarantees a new closure amount, provided the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without written permission from the CIWMB.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this Performance Bond and have affixed their seals on the date set forth above.

The parties below certify that this document conforms with the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

<table>
<tr><td>Principal Signature:
➢</td><td colspan="3">Corporate Surety(ies) Name:</td></tr>
<tr><td>Typed or Printed Name of Person Signing:</td><td colspan="2">Address:</td><td>Phone Number:</td></tr>
<tr><td>Title:</td><td colspan="3">Signature(s):</td></tr>
<tr><td rowspan="5">Corporate Seal:</td><td colspan="3">Typed or Printed Name of Person Signing:</td></tr>
<tr><td colspan="3">Title:</td></tr>
<tr><td>State of Incorporation:</td><td>Liability Limit:</td><td>Bond Premium:</td></tr>
<tr><td colspan="3">Corporate Seal:</td></tr>
<tr><td colspan="3"></td></tr>
</table>

PRIVACY STATEMENT

The Information Practices Act (California Civil Code Section 1798.17) and the Federal Privacy Act (5 U.S.C. 552a(e)(3)) require that this notice be provided when collecting personal information from individuals.

AGENCY REQUESTING INFORMATION: California Integrated Waste Management Board.

UNIT RESPONSIBLE FOR MAINTENANCE OF FORM: Financial Assurances Section, California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025. Contact the Manager, Financial Assurances Section, at (916) 341-6000.

AUTHORITY: Public Resources Code section 43600 et seq.

PURPOSE: The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed. REQUIREMENT: Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.

OTHER INFORMATION: After review of this document, you may be requested to provide additional information regarding the acceptability of this mechanism.

ACCESS: Information provided in this form may be provided to the U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Department of Toxic Substances Control, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025, (916) 341-6000.

State of California California Integrated Waste Management Board

PERFORMANCE BOND FOR POSTCLOSURE

Principal Name:

Address:

Type of Organization: ☐ Joint Venture ☐ Individual ☐ Partnership ☐ Corporation	State of Incorporation:

Bond Number:	Date Executed:	Effective Date:	Total Penal Sum:

Surety Name:

Surety Business Address:

SOLID WASTE Facility(ies) COVERED

(All amounts must total penal amounts.)

If additional space needed, add attachment.

Name of Facility(ies)	Address	Solid Waste Information System Number	Postclosure Amount
			Total

KNOW ALL PERSONS BY THESE PRESENTS, THAT WE, the Principal and Surety(ies) hereto are firmly bound to the California Integrated Waste Management Board (hereinafter called CIWMB), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS said Principal is required, under state regulations, to have a permit in order to operate each solid waste facility(ies) identified above, and

WHEREAS, said Principal is required to provide financial assurance for postclosure maintenance, as a condition of the permit, and

WHEREAS said Principal shall establish a depository trust fund as may be required under Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6 when a surety bond is used to provide such financial assurance;

NOW THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully perform postclosure maintenance of each facility for which this bond guarantees postclosure maintenance, in accordance with the postclosure plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended.

OR, if the Principal shall provide alternate financial assurance as applicable, within 60 days after the date notice of cancellation is received by the Principal and CIWMB from the Surety(ies), then this obligation shall be null and void otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by CIWMB that the Principal has been found in violation of postclosure maintenance requirements for a facility for which this bond guarantees performance of postclosure maintenance, the Surety(ies) shall either perform postclosure maintenance in accordance with the postclosure plan and other permit requirements; or place the postclosure amount guaranteed for the facility into the depository trust fund established by the Principal or, if the Principal fails to establish a depository trust fund, established by the Surety(ies), as directed by CIWMB.

Upon notification by CIWMB that the Principal has failed to provide alternate financial assurance as required, during the 60 days following receipt by the Principal and CIWMB of a notice of cancellation of the bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the depository trust fund as directed by CIWMB.

PROVIDED, however the obligation of the surety shall be only for the postclosure cost estimate certified by a registered civil engineer, according to Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6 and identified as the total penal sum on the face of this bond.

The obligation of the Surety(ies) shall not include costs for operating liability as defined in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6 or costs for corrective action as defined in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, Article 4.

The Surety(ies) hereby waive(s) notification of amendments to postclosure plans, permits, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by either registered or certified mail to the Principal and CIWMB, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the Principal and CIWMB, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization from CIWMB for termination of the bond.

The following paragraph is an optional rider that may be included, but is not required.

Principal and Surety(ies) hereby AGREE ☐ DO NOT AGREE ☐ to adjust the penal sum of the bond yearly so that it guarantees a new postclosure amount, provided the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without written permission from the CIWMB.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this Performance Bond and have affixed their seals on the date set forth above.

The parties below certify that this document conforms with the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

<table>
<tr><td>Principal Signature:
➢</td><td colspan="3">Corporate Surety(ies) Name:</td></tr>
<tr><td>Typed or Printed Name of Person Signing:</td><td>Address:</td><td colspan="2">Phone Number:</td></tr>
<tr><td>Title:</td><td colspan="3">Signature(s):</td></tr>
<tr><td rowspan="4">Corporate Seal:</td><td colspan="3">Typed or Printed Name of Person Signing:</td></tr>
<tr><td colspan="3">Title:</td></tr>
<tr><td>State of Incorporation:</td><td>Liability Limit:</td><td>Bond Premium:</td></tr>
<tr><td colspan="3">Corporate Seal:</td></tr>
</table>

PRIVACY STATEMENT

The Information Practices Act (California Civil Code Section 1798.17) and the Federal Privacy Act (5 U.S.C. 552a(e)(3)) require that this notice be provided when collecting personal information from individuals.

AGENCY REQUESTING INFORMATION: California Integrated Waste Management Board.

UNIT RESPONSIBLE FOR MAINTENANCE OF FORM: Financial Assurances Section, California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025. Contact the Manager, Financial Assurances Section, at (916) 341-6000.

AUTHORITY: Public Resources Code section 43600 et seq.

PURPOSE: The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed.

REQUIREMENT: Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.

OTHER INFORMATION: After review of this document, you may be requested to provide additional information regarding the acceptability of this mechanism.

ACCESS: Information provided in this form may be provided to the U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Department of Toxic Substances Control, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025, (916) 341-6000.

State of California California Integrated Waste Management Board

PERFORMANCE BOND FOR CORRECTIVE ACTION

Principal Name:

Address:

Type of Organization: ☐ Joint Venture ☐ Individual ☐ Partnership ☐ Corporation | State of Incorporation:

Bond Number:	Date Executed:	Effective Date:	Total Penal Sum:

Surety Name:

Surety Business Address:

SOLID WASTE Facility(ies) COVERED

(All amounts must total penal amounts.)

If additional space needed, add attachment.

Name of Facility(ies)	Address	Solid Waste Information System Number	Corrective Action Amount
			Total

KNOW ALL PERSONS BY THESE PRESENTS, THAT WE, the Principal and Surety(ies) hereto are firmly bound to the California Integrated Waste Management Board (hereinafter called CIWMB), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS said Principal is required, under state regulations, to have a permit in order to operate each solid waste facility(ies) identified above, and

WHEREAS said Principal is required to provide financial assurance for corrective action, as a condition of the permit, and

WHEREAS said Principal shall establish a depository trust fund as may be required under Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6 when a surety bond is used to provide such financial assurance;

NOW THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully perform corrective action at each facility for which this bond guarantees corrective action, in accordance with the corrective action plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended.

CIWMB 102(c) (4/96)

OR, if the Principal shall provide alternate financial assurance as applicable, within 60 days after the date notice of cancellation is received by the Principal and CIWMB from the Surety(ies), then this obligation shall be null and void otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by CIWMB that the Principal has been found in violation of corrective action requirements for a facility for which this bond guarantees performances of corrective action, the Surety(ies) shall either perform corrective action in accordance with the corrective action plan and other permit requirements; or place the corrective action amount guaranteed for the facility into the depository trust fund established by the Principal or, if the Principal fails to establish a depository trust fund, established by the Surety(ies), as directed by CIWMB.

Upon notification by CIWMB that the Principal has failed to provide alternate financial assurance as required, during the 60 days following receipt by the Principal and CIWMB of a notice of cancellation of the bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the depository trust fund as directed by CIWMB.

PROVIDED, however the obligation of the surety shall be only for the corrective action cost estimate certified by a registered civil engineer, according to Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6 and identified as the total penal sum on the face of this bond.

The obligation of the Surety(ies) shall not include costs for operating liability as defined in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

The Surety(ies) hereby waive(s) notification of amendments to corrective action plans, permits, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by either registered or certified mail to the Principal, and CIWMB, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the Principal and CIWMB, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization from CIWMB for termination of the bond.

The following paragraph is an optional rider that may be included, but is not required.

Principal and Surety(ies) hereby AGREE ☐ DO NOT AGREE ☐ to adjust the penal sum of the bond yearly so that it guarantees a new corrective action amount, provided the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without written permission from the CIWMB.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this Performance Bond and have affixed their seals on the date set forth above.

CIWMB 102(c) (4/96)

The parties below certify that this document conforms with the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

<table>
<tr><td>Principal Signature:
►</td><td colspan="3">Corporate Surety(ies) Name:</td></tr>
<tr><td>Typed or Printed Name of Person Signing:</td><td colspan="3">Address:</td></tr>
<tr><td>Title:</td><td colspan="3">Signature(s):</td></tr>
<tr><td rowspan="4">Corporate Seal:</td><td colspan="3">Typed or Printed Name of Person Signing:</td></tr>
<tr><td colspan="3">Title:</td></tr>
<tr><td>State of Incorporation:</td><td>Liability Limit:</td><td>Bond Premium:</td></tr>
<tr><td colspan="3">Corporate Seal:</td></tr>
</table>

PRIVACY STATEMENT

The Information Practices Act (California Civil Code Section 1798.17) and the Federal Privacy Act (5 U.S.C. 552a(e)(3)) require that this notice be provided when collecting personal information from individuals.

AGENCY REQUESTING INFORMATION: California Integrated Waste Management Board.

UNIT RESPONSIBLE FOR MAINTENANCE OF FORM: Financial Assurances Section, California Integrated Waste Management Board, 8800 Cal Center Drive, Sacramento, CA 95826. Contact the Manager, Financial Assurances Section at (916) 255–2200.

AUTHORITY: Public Resources Code section 43600 et seq.

PURPOSE: The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed.

REQUIREMENT: Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.

OTHER INFORMATION: After review of this document, you may be requested to provide additional information regarding the acceptability of this mechanism.

ACCESS: Information provided in this form may be provided to the U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Department of Toxic Substances Control, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the California Integrated Waste Management Board, 8800 Cal Center Drive, Sacramento, CA 95826, (916) 255–2200.

CIWMB 102(c) (4/96)

State of California California Integrated Waste Management Board

FINANCIAL GUARANTEE BOND FOR CLOSURE COSTS

Principal Name:

Address:

Type of Organization: ☐ Joint Venture ☐ Individual ☐ Partnership ☐ Corporation | State of Incorporation:

Bond Number:	Date Executed:	Effective Date:	Total Penal Sum:

Surety Name:

Surety Business Address:

SOLID WASTE Facility(ies) COVERED

(All amounts must total penal amounts.)

If additional space needed, add attachment.

Name of Facility(ies)	Address	Solid Waste Information System Number	Closure Amount
			Total

KNOW ALL PERSONS BY THESE PRESENTS, THAT WE, the Principal and Surety(ies) hereto are firmly bound to the California Integrated Waste Management Board (hereinafter called CIWMB), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS said Principal is required, under state regulations, to have a permit in order to operate each solid waste facility identified above, and

WHEREAS, said Principal is required to provide financial assurance for closure, as a condition of the permit, and

WHEREAS said Principal shall establish a depository trust fund as may be required under Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6 when a surety bond is used to provide such financial assurance:

NOW THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of each facility for which this bond guarantees payment for closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended.

CIWMB 103(a) (12/01) Page 1 of 3

OR, if the Principal shall provide alternate financial assurance, as applicable, within 60 days after the date notice of cancellation is received by the Principal and CIWMB from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by CIWMB that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the depository trust fund established by the Principal or, if the Principal fails to establish a depository trust fund, one established by the Surety(ies), as directed by CIWMB.

PROVIDED, however the obligation of the surety shall be only for the closure cost estimate certified by a registered civil engineer, according to Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6 and identified as the total penal sum on the face of this bond.

The obligation of the Surety(ies) shall not include costs for operating liability as defined in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, or costs for corrective action as defined in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, Article 4.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount to the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by either registered or certified mail to the Principal and CIWMB, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the Principal, and CIWMB as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization from CIWMB for termination of the bond.

The following paragraph is an optional rider that may be included, but is not required.

Principal and Surety(ies) hereby AGREE ☐0 DO NOT AGREE ☐0 to adjust the penal sum of the bond yearly so that it guarantees a new closure amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without written permission from CIWMB.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The parties below certify that this document conforms with the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

Principal Signature: ➢	Typed or Printed Name of Person Signing:	Title:
Corporate Seal:		

Corporate Surety(ies) Name:	Address:	Phone Number:
State of Incorporation:	Liability Limit:	
Signature(s): ➢	Typed or Printed Name of Person Signing:	Title(s):
Corporate Seal:		

Bond Premium:

PRIVACY STATEMENT

The Information Practices Act (California Civil Code Section 1798.17) and the Federal Privacy Act (5 U.S.C. 552a(e)(3)) require that this notice be provided when collecting personal information from individuals.

AGENCY REQUESTING INFORMATION: California Integrated Waste Management Board.

UNIT RESPONSIBLE FOR MAINTENANCE OF FORM: Financial Assurances Section, California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025. Contact the Manager, Financial Assurances Section, at (916) 341-6000.

AUTHORITY: Public Resources Code section 43600 et seq.

PURPOSE: The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed.

REQUIREMENT: Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.

OTHER INFORMATION: After review of this document, you may be requested to provide additional information regarding the acceptability of this mechanism.

ACCESS: Information provided in this form may be provided to the U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Department of Toxic Substances Control, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025, (916) 341-6000.

State of California California Integrated Waste Management Board

FINANCIAL GUARANTEE BOND FOR POSTCLOSURE COSTS

Principal Name:

Address:

Type of Organization: ☐ Joint Venture ☐ Individual ☐ Partnership ☐ Corporation	State of Incorporation:

Bond Number:	Date Executed:	Effective Date:	Total Penal Sum:

Surety Name:

Surety Business Address:

SOLID WASTE Facility(ies) COVERED

(All amounts must total penal amounts.)

If additional space needed, add attachment.

Name of Facility(ies)	Address	Solid Waste Information System Number	Postclosure Amount
			Total

KNOW ALL PERSONS BY THESE PRESENTS, THAT WE, the Principal and Surety(ies) hereto are firmly bound to the California Integrated Waste Management Board (hereinafter called CIWMB), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS said Principal is required, under state regulations, to have a permit in order to operate each solid waste facility identified above, and

WHEREAS, said Principal is required to provide financial assurance for postclosure maintenance, as a condition of the permit, and

WHEREAS said Principal shall establish a depository trust fund as may be required under Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6 when a surety bond is used to provide such financial assurance:

NOW THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform postclosure maintenance of each facility for which this bond guarantees payment for postclosure maintenance, in accordance with the postclosure maintenance plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended.

OR, if the Principal shall provide alternate financial assurance, as applicable, within 60 days after the date notice of cancellation is received by the Principal and CIWMB from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by CIWMB that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the depository trust fund established by the Principal or, if the Principal fails to establish a depository trust fund, one established by the Surety(ies), as directed by CIWMB.

PROVIDED, however the obligation of the surety shall be only for the postclosure maintenance cost estimate certified by a registered civil engineer, according to Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6 and identified as the total penal sum on the face of this bond.

The obligation of the Surety(ies) shall not include costs for operating liability as defined in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, or costs for corrective action as defined in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, Article 4.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount to the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by either registered or certified mail to the Principal and CIWMB, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the Principal and CIWMB as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization from CIWMB for termination of the bond.

The following paragraph is an optional rider that may be included, but is not required.

Principal and Surety(ies) hereby AGREE ☐ DO NOT AGREE ☐ to adjust the penal sum of the bond yearly so that it guarantees a new postclosure amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without written permission from CIWMB.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The parties below certify that this document conforms with the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

Principal Signature: ➢	Typed or Printed Name of Person Signing:	Title:

Corporate Seal:

Corporate Surety(ies) Name:	Address:	Phone Number:
State of Incorporation:	Liability Limit:	
Signature(s): ➢	Typed or Printed Name of Person Signing:	Title(s):

Corporate Seal:

Bond Premium:

PRIVACY STATEMENT

The Information Practices Act (California Civil Code Section 1798.17) and the Federal Privacy Act (5 U.S.C. 552a(e)(3)) require that this notice be provided when collecting personal information from individuals.

AGENCY REQUESTING INFORMATION: California Integrated Waste Management Board.

UNIT RESPONSIBLE FOR MAINTENANCE OF FORM: Financial Assurances Section, California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025. Contact the Manager, Financial Assurances Section, at (916) 341-6000.

AUTHORITY: Public Resources Code section 43600 et seq.

PURPOSE: The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed.

REQUIREMENT: Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.

OTHER INFORMATION: After review of this document, you may be requested to provide additional information regarding the acceptability of this mechanism.

ACCESS: Information provided in this form may be provided to the U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Department of Toxic Substances Control, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025, (916) 341-6000.

State of California California Integrated Waste Management Board

FINANCIAL GUARANTEE BOND FOR CORRECTIVE ACTION COSTS

Principal Name:

Address:

Type of Organization: ☐ Joint Venture ☐ Individual ☐ Partnership ☐ Corporation	State of Incorporation:

Bond Number:	Date Executed:	Effective Date:	Total Penal Sum:

Surety Name:

Surety Business Address:

SOLID WASTE Facility(ies) COVERED

(All amounts must total penal amounts.)

If additional space needed, add attachment.

Name of Facility(ies)	Address	Solid Waste Information System Number	Corrective Action Amount
			Total

KNOW ALL PERSONS BY THESE PRESENTS, THAT WE, the Principal and Surety(ies) hereto are firmly bound to the California Integrated Waste Management Board (hereinafter called CIWMB), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS said Principal is required, under state regulations, to have a permit in order to operate each solid waste facility identified above, and

WHEREAS, said Principal is required to provide financial assurance for corrective action, as a condition of the permit, and

WHEREAS said Principal shall establish a depository trust fund as may be required under Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6 when a surety bond is used to provide such financial assurance:

NOW THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform corrective action of each facility for which this bond guarantees payment for corrective action, in accordance with the corrective action plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended.

OR, if the Principal shall provide alternate financial assurance, as applicable, within 60 days after the date notice of cancellation is received by the Principal and CIWMB from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by CIWMB that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the depository trust fund established by the Principal or, if the Principal fails to establish a depository trust fund, one established by the Surety(ies), as directed by CIWMB.

PROVIDED, however the obligation of the surety shall be only for the corrective action cost estimate certified by a registered civil engineer, according to Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6 and identified as the total penal sum on the face of this bond.

The obligation of the Surety(ies) shall not include costs for operating liability as defined in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount to the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by either registered or certified mail to the Principal and CIWMB, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the Principal and CIWMB as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization from CIWMB for termination of the bond.

The following paragraph is an optional rider that may be included, but is not required.

Principal and Surety(ies) hereby AGREE ☐ DO NOT AGREE ☐ to adjust the penal sum of the bond yearly so that it guarantees a new corrective action amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without written permission from CIWMB.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The parties below certify that this document conforms with the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

Principal Signature: ➢	Typed or Printed Name of Person Signing:	Title:

Corporate Seal:

Corporate Surety(ies) Name:	Address:	Phone Number:
State of Incorporation:	Liability Limit:	
Signature(s): ➢	Typed or Printed Name of Person Signing:	Title(s):

Corporate Seal:

Bond Premium:

PRIVACY STATEMENT

The Information Practices Act (California Civil Code Section 1798.17) and the Federal Privacy Act (5 U.S.C. 552a(e)(3)) require that this notice be provided when collecting personal information from individuals.

AGENCY REQUESTING INFORMATION: California Integrated *Waste Management Board.*

UNIT RESPONSIBLE FOR MAINTENANCE OF FORM: Financial Assurances Section, California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025. Contact the Manager, Financial Assurances Section, at (916) 341-6000.

AUTHORITY: Public Resources Code section 43600 et seq.

PURPOSE: The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed.

REQUIREMENT: Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.

OTHER INFORMATION: After review of this document, you may be requested to provide additional information regarding the acceptability of this mechanism.

ACCESS: Information provided in this form may be provided to the U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Department of Toxic Substances Control, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025, (916) 341-6000.

State of California California Integrated Waste Management Board

THIS PAGE INSTRUCTIONS ONLY

Letter From the Chief Financial Officer
Financial Means Test for Postclosure Maintenance and/or Operating Liability

(a) A letter from the chief financial officer, as specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, shall be on operator or guarantor letterhead stationery. It shall contain the original signature of the chief financial officer and shall be worded as indicated on the attached proforma Form CIWMB 104 (12/01).

(b) The letter from the chief financial officer shall be accompanied by the following items, as specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

(1) A copy of an independent certified public accountant's report on financial statements for the latest completed fiscal year.

(2) A special report from the independent certified public accountant on the financial data in the letter;

(3) A copy of the financial statements for the latest completed fiscal year.

(4) A copy of the Form 10-K most recently filed with the Securities and Exchange Commission, if required; and

(5) If applicable, the guarantee with wording as specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

PRIVACY STATEMENT

The Information Practices Act (California Civil Code Section 1798.17) and the Federal Privacy Act (5 U.S.C. 552a(e)(3)) require that this notice be provided when collecting personal information from individuals.

AGENCY REQUESTING INFORMATION: California Integrated Waste Management Board.

UNIT RESPONSIBLE FOR MAINTENANCE OF FORM: Financial Assurances Section, California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025. Contact the Manager, Financial Assurances Section, at (916) 341-6000.

AUTHORITY: Public Resources Code section 43600 et seq.

PURPOSE: The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed.

REQUIREMENT: Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.

OTHER INFORMATION: After review of this document, you may be requested to provide additional information regarding the acceptability of this mechanism.

ACCESS: Information provided in this form may be provided to the U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Department of Toxic Substances Control, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025, (916) 341-6000.

Executive Director
California Integrated Waste Management Board
1001 I Street
P.O. Box 4025
Sacramento, CA 95812-4025

I am the chief financial officer of _____Operator's or Guarantor's Name and Address_____. This letter is in support of the financial means test or guarantee to demonstrate financial assurance, as specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

[Fill out the following paragraphs regarding all United States solid waste facilities and associated cost estimates. If no facilities belong in a particular paragraph, write "None" in the space indicated. For each facility, include its solid waste information system or other identification number, name, address, and current closure and/or postclosure cost estimates and/or operating liability coverage. Identify each cost estimate separately as to whether it is for closure or postclosure maintenance cost estimates or operating liability coverage. The CIWMB only allows demonstrations to the CIWMB for the costs of postclosure maintenance and operating liability, as specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.]

1. This firm is the operator or owner of the following facilities for which the firm is demonstrating financial assurance for postclosure maintenance and/or operating liability coverage through the financial means test specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, or financial assurance for closure and/or postclosure maintenance and/or operating liability through similar financial means tests specified in the laws of this and/or other states. The current closure and/or postclosure cost estimates and/or operating liability covered by the tests are shown for each facility:

2. This firm guarantees, through the guarantee for postclosure maintenance and/or operating liability specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, or through similar guarantees for closure and/or postclosure maintenance and/or operating liability coverage specified in the laws of this and/or other states, the closure and/or postclosure maintenance and/or operating liability of the following facilities. The current closure and/or postclosure maintenance cost estimates and/or operating liability so guaranteed and the name and address of the operator are shown for each facility:

3. The tangible net worth identified in the financial means test or guarantee is calculated by [include a specific description of all relevant items and the individual specific values utilized in deriving the reported tangible net worth].

This firm is ☐ is not ☐ required to file a Form 10-K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on ____Month, Day____. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended _____Date_____. Use either Alternative I or Alternative II.

ALTERNATIVE I
(Omit if using Alternative II)

1.	Sum of current closure and/or postclosure cost estimates and/or operating liability coverage (total of all cost estimates and annual aggregates shown in the two numbered paragraphs of the letter to CIWMB)	$ _____
2.	Total liabilities (if any portion of the closure or postclosure cost estimates or operating liability coverage is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4)	$ _____
* 3.	Tangible net worth (detailed explanation in Chief Financial Officer Letter)	$ _____
* 4.	Net worth	$ _____
* 5.	Current assets	$ _____
* 6.	Current Liabilities	$ _____
7.	Net working capital (line 5 minus line 6)	$ _____
* 8.	The sum of net income plus depreciation, depletion, and amortization	$ _____
9.	Total assets in the United States (required only if less than 90 percent of the firm's assets are located in the United States)	$ _____
10.	Is line 3 at least $15 million?	☐ Yes ☐ No
11.	Is line 3 at least 6 times line 1?	☐ Yes ☐ No
12.	Is line 7 at least 6 times line 1?	☐ Yes ☐ No
13.	Are at least 90 percent of firm's assets located in the United States? ..... If not, complete line 14	☐ Yes ☐ No
14.	Is line 9 at least 6 times line 1?	☐ Yes ☐ No
15.	Is line 2 divided by line 4 less than 2.0?	☐ Yes ☐ No
16.	Is line 8 divided by line 2 greater than 0.1?	☐ Yes ☐ No
17.	Is line 5 divided by line 6 greater than 1.5?	☐ Yes ☐ No

I hereby certify that this letter is worded as specified by the California Integrated Waste Management Board and is being executed in accordance with the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

Signature _____ Typed or Printed Name _____

Title _____ Phone Number _____ Date _____

Corporate Seal

State of California California Integrated Waste Management Board

ALTERNATIVE II
(Omit if using Alternative I)

1. Sum of current closure and/or postclosure cost estimates and/or operating liability coverage (total of all cost estimates and annual aggregates shown in the two numbered paragraphs of the letter to CIWMB..... $ _____

2. Current bond rating of most recent issuance of this firm and name of rating service .... _____

3. Date of issuance of bond ..... _____

4. Date of maturity of bond ..... _____

* 5. Tangible net worth (if any portion of the closure or postclosure cost estimates or operating liability coverage is included in "total liabilities" on your firm's financial statements, you may add the amount of that portion to this line)..... $ _____

6. Total assets in the United States (required only if less than 90 percent of firm's assets are located in the United States) ..... $ _____

7. Is line 5 at least $15 million? . ..... ☐ Yes ☐ No

8. Is line 5 at least 6 times line 1?..... ☐ Yes ☐ No

9. Are at least 90 percent of firm's assets located in the United States? ..... ☐ Yes ☐ No
If not, complete line 10

10. Is line 6 at least 6 times line 1? ..... ☐ Yes ☐ No

I hereby certify that this letter is worded as specified by the California Integrated Waste Management Board and is being executed in accordance with the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

_____ _____
Signature Typed or Printed Name

_____ _____ _____
Title Phone Number Date

Corporate Seal

CIWMB 104 (11/06) Page 4 of 4

State of California California Integrated Waste Management Board

GUARANTEE

Shall be on guarantor's letterhead stationery. It shall also contain original signature of Guarantor and shall be worded as indicated on proforma form CIWMB *105 (12/01)*

Executive Director
California Integrated Waste Management Board
1001 I Street
P.O. Box 4025
Sacramento, CA 95812-4025

Guarantee made this Date by Name of Guaranteeing Entity, a business entity organized under the laws of Insert Name of State, herein referred to as Guarantor, to the California Integrated Waste Management Board (CIWMB) obligee on behalf of Operator of Business Address.

Recitals

1. Guarantor meets or exceeds the financial means test criteria and agrees to comply with the reporting requirements for guarantors as specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

2. Guarantor ☐ is a parent corporation of the Operator ; ☐ is a firm whose parent corporation, Corporate Parent , is also the parent corporation of Operator ; or ☐ engages in a substantial business relationship with Operator and is issuing this guarantee as an act incident to that business relationship.

3. Operator operates the following solid waste facility(ies) covered by this guarantee. [List for each facility: solid waste information system number, name and address.]

4. "Postclosure plans" as used below refer to the plan maintained as required by Public Resources Code section 43503, for the postclosure maintenance of facilities as identified above.

5. [Insert appropriate phrase: "On behalf of our subsidiary" (if guarantor is a parent corporation of the operator); "On behalf of our affiliate" (if guarantor is a firm whose parent corporation is also the parent corporation of the operator); or "Incident to our business relationship with" (if guarantor is providing guarantee as an incident to a substantial business relationship with the operator)] Operator . Guarantor guarantees to CIWMB that in the event that Operator fails to perform postclosure maintenance of the above facility(ies) in accordance with the postclosure plan and other permit requirements, or fails to provide operating liability coverage for the above facility(ies) whenever required to do so, Guarantor shall do so or establish a trust fund as specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, as applicable, in the name of Operator in the amount of the applicable current postclosure cost estimate and/or operating liability coverage requirement.

6. Guarantor agrees that if at any time during or at the end of any fiscal year before termination of this guarantee the Guarantor fails to meet the financial means test criteria, Guarantor shall send within 90 days, by either registered or certified mail, notice to CIWMB, and the Operator , of such failure and that he or she intends to provide alternate financial assurance as specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, as applicable, in the name of Operator if the Operator fails to obtain such assurance. Within 120 days after the end of such fiscal year or other occurrence, Guarantor shall establish such alternate financial assurance in the name of Operator in the amount of the applicable current postclosure cost estimate and/or operating liability coverage requirement, unless Operator has done so.

7. Guarantor agrees to notify CIWMB, and the Operator , by either registered or certified mail of a voluntary or involuntary proceeding under the Bankruptcy Code, 11 U.S.C. Sections 101-1330, naming Guarantor as debtor within ten days after commencement of the proceeding.

8. Guarantor agrees that within 30 days after being notified by the CIWMB of a determination that Guarantor no longer meets the financial means test criteria or that he or she is disallowed from continuing as a Guarantor of postclosure maintenance and/or operating liability, he or she shall establish alternate financial assurance, as applicable, in the name of Operator unless Operator has done so.

9. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the postclosure plan, amendment or modification of operating liability requirement, amendment or modification of the permit, the extension or reduction of the time of performance of postclosure or any other modification or alteration of an obligation of the operator pursuant to Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

10. Guarantor agrees to remain bound under this guarantee for so long as Operator must comply with the applicable financial assurance requirements for the above-listed facility(ies), except that Guarantor may cancel this guarantee by sending notice by registered or certified mail to CIWMB, and the Operator. Such cancellation shall become effective no earlier than 120 days after receipt of such notice by CIWMB, and the Operator, as evidenced by the return receipts.

11. Guarantor agrees that if Operator fails to provide alternate financial assurance as specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, as applicable, within 90 days after a notice of cancellation by Guarantor is received from Guarantor by CIWMB, and the Operator, Guarantor shall provide such alternate financial assurance in the name of Operator in the amount or the applicable current postclosure cost estimate or operating liability coverage requirement.

12. Guarantor expressly waives notice of acceptance of this guarantee by CIWMB, or the Operator. Guarantor also expressly waives notice of amendments or modifications of the postclosure plan, operating liability requirements, and of amendments or modifications of the facility permit(s).

The parties below certify that this document is being executed in accordance with the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

Effective date: _____

_____
Name of Guarantor

_____
Authorized Signature of Guarantor

➢ _____
Typed or Printed Name of Person Signing

_____
Title and Phone Number of Person Signing

➢ _____
Signature of Witness or Notary and Seal

Privacy Statement

The Information Practices Act (California Civil Code Section 1798.17) and the Federal Privacy Act (5 U.S.C. 552a(e)(3)) require that this notice be provided when collecting personal information from individuals.

AGENCY REQUESTING INFORMATION: California Integrated Waste Management Board.

UNIT RESPONSIBLE FOR MAINTENANCE OF FORM: Financial Assurances Section, California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025. Contact the Manager, Financial Assurances Section, at (916) 341-6000.

AUTHORITY: Public Resources Code section 43600 et seq.

PURPOSE: The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed.

REQUIREMENT: Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.

OTHER INFORMATION: After review of this document, you may be requested to provide additional information regarding the acceptability of this mechanism.

ACCESS: Information provided in this form may be provided to the U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Department of Toxic Substances Control, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025, (916) 341-6000.

State of California California Integrated Waste Management Board

CERTIFICATE OF INSURANCE FOR
CLOSURE
POSTCLOSURE MAINTENANCE
REASONABLY FORESEEABLE CORRECTIVE ACTION

If additional space is needed, add attachment.

Insurer Name	Address Phone Number	CA Insurer License Number or NAIC Number
Insured Name	Address Phone Number	

Solid Waste Disposal Facilities Covered: *(Enter closure, postclosure maintenance, and reasonably foreseeable corrective action amounts separately. If coverage is not offered, enter "N/A" as the amount. All amounts must total face amount.)*

Name	Address	Solid Waste Disposal Facility Identification Number	Closure Insurance Amount	Postclosure Insurance Amount	Reasonably Foreseeable Corrective Action Amount
Policy Number:		Effective Date:	Face Amount:		

INSURER CERTIFICATION

The insurer hereby certifies that it has issued to the insured the identified policy of insurance to provide financial assurance for Closure ☐, Postclosure Maintenance ☐, Reasonably Foreseeable Corrective Action ☐ *(Check all that apply)*, for the facility(ies) identified above. The policy provides that monies identified in the face amount above will be available, as applicable, for the facility(ies) when needed. The term *face amount* means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments. The insurer further warrants that such policy conforms in all respects with the requirements of Division 30 of the Public Resources Code; Title 27 of the California Code of Regulations, Division 2, Subdivision 1, Chapter 6; and the regulations of the California Department of Insurance and under the terms and conditions described in Division 1 of the California Insurance Code for the facility(ies) identified above, as applicable and as such regulations were constituted on the date shown below. **It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.**

The insurance policy shall guarantee that funds will be available whenever insured activities occur. The policy shall also guarantee that once the insured activities begin, the insurer will be responsible for the paying out of funds to the operator or person authorized to conduct the insured activities, up to an amount equal to the face amount of the policy.

The insurance policy shall guarantee that disbursements for expenditures will be granted only if the remaining value of the policy is sufficient to cover the remaining approved applicable costs, and if the expenditures have been reviewed and approved in writing by the California Integrated Waste Management Board (CIWMB) or its designee.

Notwithstanding any other provisions of Division 30 of the Public Resources Code or Title 27 of the California Code of Regulations, Division 2, Subdivision 1, Chapter 6, if either partial or complete closure, postclosure maintenance or corrective action is ordered by the CIWMB or its designee as a result of failure by the operator or person authorized to conduct such activities, the insurance policy shall also guarantee that the insurer will be responsible for paying out funds to the CIWMB for deposit into a special account established by the CIWMB for closure of the facility. The insurance policy shall further guarantee that the insurer will, without delay, pay to the CIWMB the amount the CIWMB requests, up to an amount equal to the face amount of the insurance policy. CIWMB requests for payment will be based on current estimated expenses as determined by the CIWMB for closure, postclosure maintenance or corrective action activities. Any payments made by the insurer that exceed the actual expenses incurred in performing the insured activity will be repaid to the insurer at the completion of the insured activity.

State of California California Integrated Waste Management Board

This insurance coverage allows assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided that such consent is not unreasonably refused.

The insurer further certifies that it will not cancel, terminate, or fail to renew this policy except for failure to pay the premium, and that the automatic renewal of the policy provides the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium and the insurer elects to cancel, terminate or not renew the policy, the insurer will send notice by either registered or certified mail to the operator and the CIWMB. Cancellation, termination, or failure to renew may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by the operator and the CIWMB, as evidenced by the return receipts. Cancellation, termination, or failure to renew will not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(1) The CIWMB or local enforcement agency deems the facility abandoned; or
(2) The permit is terminated or revoked or a new permit is denied by the CIWMB or local enforcement agency; or
(3) Closure is ordered by the CIWMB, or any other State or federal agency, or a court of competent jurisdiction; or
(4) The operator is named as a debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy) U.S. Code; or
(5) All delinquent premium payments have been brought current.

If this policy is used in combination with another mechanism, this policy shall be considered primary ☐ or excess ☐ *(check one)* coverage. Whenever requested by the California Integrated Waste Management Board of the State of California, the insurer agrees to furnish to the CIWMB a certified copy of the original policy listed above, including all endorsements thereon.

The party below certifies and signs under penalty of perjury that the information in this document is true and correct to the best of his or her knowledge, and satisfies the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, and that the insurer is licensed by the California Department of Insurance to transact the business of insurance in the State of California as an ☐ admitted carrier or ☐ eligible excess or surplus lines insurer.

Authorized Signature of Insurer > 	Title
Typed or Printed Name of Person Signing > 	Phone Number
Notary Signature and Seal > 	Date

Privacy Statement

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AGENCY REQUESTING INFORMATION: California Integrated Waste Management Board.

UNIT RESPONSIBLE FOR MAINTENANCE OF FORM: Financial Assurances Section, California Integrated Waste Management Board, 1001 "I" Street, P.O. Box 4025, Sacramento, California 95812–4025. Contact the Manager, Financial Assurances Section, at (916) 341–6000.

AUTHORITY: Public Resources Code section 43600 et seq.

PURPOSE: The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed.

REQUIREMENT: Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.

OTHER INFORMATION: After review of this document, you may be requested to provide additional information regarding the acceptability of this mechanism.

ACCESS: Information provided in this form may be provided to the U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Department of Toxic Substances Control, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the California Integrated Waste Management Board 1001 "I" Street, P.O. Box 4025, Sacramento, California 95812–4025, (916) 341–6000.

State of California California Integrated Waste Management Board

CERTIFICATE OF LIABILITY INSURANCE

(If additional space is needed, add attachment.)

Name of Insurer	Address Phone Number	CA Insurer License Number: or NAIC Number:
Name of Insured	Address Phone Number	

Solid Waste Disposal Facilities Covered: (Enter Information for Each Facility) LIMITS OF LIABILITY

Name	Address	Facility Information Number	Per Occurrence*	Annual Aggregate*
			TOTAL	TOTAL
Policy Number		Effective Date		

*Excluding legal defense costs and deductibles

INSURER CERTIFICATION:

1. The insurer hereby certifies that it has issued liability insurance covering bodily injury and property damage to the insured listed above in connection with the insured's obligation to demonstrate financial responsibility under Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6. The coverage applies to the above–listed facility(ies) for accidental occurrences arising from the operation of the facility(ies).

2. Indicate whether this coverage is ☐ primary or ☐ excess coverage.

3. The limits of liability are the amounts stated above for "per occurrence" and "annual aggregate", exclusive of legal defense costs. If an excess coverage insurance policy is being provided, complete the following sentence:
[$_____per occurrence and $_____annual aggregate in excess of the underlying limits of $_____per occurrence and $_____annual aggregate.]

4. The insurance coverage is subject to all of the terms and conditions of the policy; provided, however, that any provisions of the policy inconsistent with sections (a) through (e) of this paragraph shall be amended to conform with sections (a) through (e):

(a) Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy to which this certification applies.

(b) The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement from the insured for any such payment made by the insurer. If another mechanism, as specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, is used to demonstrate coverage of the deductible, then this section does not apply.

(c) Upon request by the California Integrated Waste Management Board (CIWMB), the insurer agrees to furnish to the CIWMB the original policy and all endorsements.

(d) Cancellation or any other termination of this certificate, whether by the insurer, the insured, a parent corporation providing insurance coverage for its subsidiary, or by a firm having an insurable interest in and obtaining liability insurance on behalf of the operator of the solid waste disposal facility(ies), will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is sent by certified mail, and received by the CIWMB, as evidenced by the return receipt. (See exception, section (e))

(e) Cancellation due to non-payment of premiums is effective only upon written notice and only after the expiration of 10 days after the date on which the operator and the CIWMB have received the notice of termination, as evidenced by the return receipts.

The party below certifies and signs under penalty of perjury that the information in this document is true and correct to the best of his or her knowledge, and satisfies the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, and that the insurer is licensed by the California Department of Insurance to transact the business of insurance in the State of California as an ☐ admitted carrier or ☐ eligible excess or surplus lines insurer.

Signature of Individual Authorized to Sign on Behalf of Insurer	Title of Authorized Person
Typed or Printed Name of Person Signing	Date
Address of Person Signing Phone Number of Person Signing	

PRIVACY STATEMENT

The Information Practices Act (California Civil Code Section 1798.17) and the Federal Privacy Act (5 U.S.C. 552a(e)(3)) require that this notice be provided when collecting personal information from individuals.

AGENCY REQUESTING INFORMATION: California Integrated Waste Management Board.

UNIT RESPONSIBLE FOR MAINTENANCE OF FORM: Financial Assurances Section, California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812–4025. Contact the Manager, Financial Assurances Section, at (916) 341–6000.

AUTHORITY: Public Resources Code section 43600 et seq.

PURPOSE: The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed.

REQUIREMENT: Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.

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State of California California Integrated Waste Management Board

LIABILITY INSURANCE ENDORSEMENT

(If additional space is needed, add attachment.)

Name of Insurer	Address Phone Number	CA Insurer License Number: or NAIC Number:
Name of Insured	Address Phone Number	

Solid Waste Disposal Facilities Covered: (Enter Information for Each Facility) LIMITS OF LIABILITY

Name	Address	Facility Information Number	Per Occurrence*	Annual Aggregate*
			TOTAL	TOTAL

Policy Number	Effective Date

*Excluding legal defense costs and deductibles

INSURER CERTIFICATION:

1. By endorsement, the insurer certifies that this policy provides liability insurance covering bodily injury and property damage in connection with the insured's obligation to demonstrate financial responsibility under Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6. The coverage applies to the above-listed facility(ies) for accidental occurrences arising from the operation of the facility(ies).

2. Indicate whether the coverage is ☐ primary or ☐ excess coverage.

3. The limits of liability are the amounts stated above for "per occurrence" and "annual aggregate", exclusive of legal defense costs. If the endorsement is for an excess coverage insurance policy, complete the following sentence:

[$_____per occurrence and $_____annual aggregate in excess of the underlying limits of $_____per occurrence and $_____annual aggregate.]

4. The insurance coverage is subject to all of the terms and conditions of the policy; provided, however, that any provisions of the policy inconsistent with sections (a) through (e) of this paragraph shall be amended to conform with sections (a) through (e):

(a) Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy to which this endorsement is attached.

(b) The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement from the insured for any such payment made by the insurer. If another mechanism, as specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, is used to demonstrate coverage of the deductible, then this section does not apply.

(c) Upon request by the California Integrated Waste Management Board (CIWMB), the insurer agrees to furnish to the CIWMB the original policy and all endorsements.

(d) Cancellation or any other termination of this endorsement, whether by the insurer, the insured, a parent corporation providing insurance coverage for its subsidiary, or by a firm having an insurable interest in and obtaining liability insurance on behalf of the operator of the solid waste disposal facility, will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is sent by certified mail, and received by the CIWMB, as evidenced by the return receipt. (See exception, section (e))

(e) Cancellation due to non–payment of premiums is effective only upon written notice and only after the expiration of 10 days after the date on which the operator and the CIWMB have received the notice of termination, as evidenced by return receipts.

The party below certifies and signs under penalty of perjury that the information in this document is true and correct to the best of his or her knowledge, and satisfies the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, and that the insurer is licensed by the California Department of Insurance to transact the business of insurance in the State of California as an □ admitted carrier or □ eligible excess or surplus lines insurer.

Signature of Individual Authorized to Sign on Behalf of Insurer	Title of Authorized Person
Typed or Printed Name of Person Signing	Date
Address of Person Signing Phone Number of Person Signing	

PRIVACY STATEMENT

The Information Practices Act (California Civil Code Section 1798.17) and the Federal Privacy Act (5 U.S.C. 552a(e)(3)) require that this notice be provided when collecting personal information from individuals.

AGENCY REQUESTING INFORMATION: California Integrated Waste Management Board.

UNIT RESPONSIBLE FOR MAINTENANCE OF FORM: Financial Assurances Section, California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812–4025. Contact the Manager, Financial Assurances Section, at (916) 341–6000.

AUTHORITY: Public Resources Code section 43600 et seq.

PURPOSE: The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed.

REQUIREMENT: Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.

OTHER INFORMATION: After review of this document, you may be requested to provide additional information regarding the acceptability of this mechanism.

ACCESS: Information provided in this form may be provided to the U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Department of Toxic Substances Control, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812–4025, (916) 341–6000.

State of California California Integrated Waste Management Board

CERTIFICATE OF SELF-INSURANCE AND RISK MANAGEMENT

(If additional space is needed, add attachment.)

Operator	Address
Risk Manager	Address (if different from above)

Solid Waste Disposal Facilities Covered: (Enter Information for Each Facility) LIMITS OF LIABILITY

Name	Address	Facility Information Number	Per Occurrence*	Annual Aggregate*
			TOTAL	TOTAL

*Excluding legal defense costs

CERTIFICATION:

1. The operator and risk manager named above hereby certify that the facilities listed above are self-insured for third party bodily injury and property damage in connection with the operator's obligation to demonstrate financial responsibility under Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6. The coverage applies to the above-listed facility(ies) for accidental occurrences arising from the operations of the facility(ies).

2. The limits of liability are the amounts stated above for "per occurrence" and "annual aggregate", exclusive of legal defense costs.

3. Indicate whether this coverage is ☐ primary or ☐ excess coverage.

4. Upon request by the California Integrated Waste Management Board (CIWMB), the operator agrees to furnish to the CIWMB any documents pertinent to this coverage.

5. Termination of this coverage, will be effective only upon written notice, sent by certified mail, and only after the expiration of 60 days after a copy of such written notice is received by the CIWMB, as evidenced by the return receipt.

The parties below certify and sign under penalty of perjury that the information in this document is true and correct to the best of his or her knowledge, and satisfies the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

Operator's Signature	Title
Typed or Printed Name of Person Signing	Date
Risk Manager's Signature	Title
Typed or Printed Name of Person Signing	Date
Phone Number of Person Signing	

PRIVACY STATEMENT

The Information Practices Act (California Civil Code Section 1798.17) and the Federal Privacy Act (5 U.S.C. 552a(e)(3)) require that this notice be provided when collecting personal information from individuals.

AGENCY REQUESTING INFORMATION: California Integrated Waste Management Board.

UNIT RESPONSIBLE FOR MAINTENANCE OF FORM: Financial Assurances Section, California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025. Contact the Manager, Financial Assurances Section, at (916) 341-6000.

AUTHORITY: Public Resources Code section 43600 et seq.

PURPOSE: The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed.

REQUIREMENT: Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.

OTHER INFORMATION: After review of this document, you may be requested to provide additional information regarding the acceptability of this mechanism.

ACCESS: Information provided in this form may be provided to the U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Department of Toxic Substances Control, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025, (916) 341-6000.

State of California California Integrated Waste Management Board

OPERATOR CERTIFICATION OF COMPREHENSIVE GENERAL LIABILITY INSURANCE COVERAGE AND ESTABLISHMENT AND FUNDING OF THE ENVIRONMENTAL LIABILITY FUND

The undersigned,_____, a:
(Name of Operator)

☐ corporation incorporated in the State of_____, and licensed to do business in the State of California; or
(Name of State)

☐ partnership, individual, municipality, or_____, with its principal executive address located at _____, in_____, _____ and whose California address, if different is located at _____, in _____, California, hereby certifies the following:
(Other entity) (Street Address) (City) (State) (Street Address) (City)

1) that comprehensive general liability insurance coverage has been secured on behalf of_____ in accordance with the requirements of Title 27, California Code of Regulations (CCR), Division 2, Subdivision 1, Chapter 6.
(Name of Operator)

2) that the Environmental Liability Fund has been established and the initial deposit was made in accordance with 27 CCR Division 2, Subdivision 1, Chapter 6; and

3) that annual deposits to the fund will be made in accordance with 27 CCR Division 2, Subdivision 1, Chapter 6.

List the site(s) covered by this certification *(if additional space needed, please attach addendum)*

Facility Name	Facility Identification Number
_____	_____
_____	_____

Please check the following:

☐ Documentation of insurance coverage enclosed ☐ Environmental Liability Fund Agreement enclosed

I certify and sign under penalty of perjury that the information in this document is true and correct to the best of my knowledge, is satisfies the requirements of 27 CCR Division 2, Subdivision 1, Chapter 6, and that I am authorized to make this certification on behalf of_____.
(Name of Operator)

_____ _____
Date Typed Name and Title

_____ _____
Phone Number Signature

CIWMB 110 (12/01) Page 1 of 1

State of California California Integrated Waste Management Board

ENVIRONMENTAL LIABILITY FUND AGREEMENT

Account Number:_____

This Agreement is entered into as of_____ by and between:

GRANTOR	TRUSTEE
Operator Name:	Trustee Name:
Address: Phone Number:	Address: Phone Number:
☐ Corporation ☐ Association ☐ Partnership ☐ Proprietorship In the State of _____	☐ Incorporated in the State of_____ ☐ A National Bank

TERMS OF AGREEMENT

WHEREAS, the California Integrated Waste Management Board has established regulations applicable to the Grantor in Title 27, California Code of Regulations (CCR), Division 2, Subdivision 1, Chapter 6, requiring that an operator of a solid waste disposal facility shall demonstrate financial responsibility for bodily injury and/or property damage to third parties caused by accidental occurrences arising from the operation of the facility, and

WHEREAS, the Grantor has elected to establish a fund to assure all or part of such financial responsibility for the solid waste disposal facility or group of solid waste disposal facilities identified herein, and

WHEREAS, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

NOW THEREFORE, the Grantor and Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

(c) The term "Beneficiary" means third party claimants who satisfy the requirements either of Section 4(a) or 4(b) of this Agreement.

(d) The term "California Integrated Waste Management Board" or "CIWMB" means the California Integrated Waste Management Board or its designee.

Section 2. Identification of Facilities and Coverage Amounts. This Agreement pertains to the solid waste disposal facilities and coverage amounts identified on attached Schedule A [for each facility included in Schedule A, list the facility information system number, name, address, amount of per occurrence coverage and annual aggregate coverage or portions thereof, if more than one instrument affords combined coverage for more than one facility as demonstrated by this Agreement].

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a fund, hereinafter the "Fund", for the benefit of any and all third parties injured or damaged by accidental occurrences arising from operation of the facility(ies). This Fund is exclusively for accidental occurrences not covered by the comprehensive general liability insurance coverage which has been established in conjunction with this Fund (copy of certificate attached). This Fund is established in the amounts of _____ per occurrence and _____ annual aggregate for accidental occurrences, except that the Fund is not established for the benefit of third parties for the following:

(a) "Bodily injury" or "property damage" expected or intended from the standpoint of the Grantor. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

(b) "Bodily injury" or "property damage" for which the Grantor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the Grantor would be obligated to pay in the absence of the contract or agreement.

(c) Any obligation of the Grantor under a workers' compensation, disability benefits, or unemployment compensation law or any similar law.

(d) "Bodily injury" to:

(1) An employee of the Grantor arising from, and in the course of, employment by the Grantor; or

(2) The spouse, child, parent, brother, or sister of an employee as a consequence of (1) above.

This exclusion applies:

(1) Whether the Grantor may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay another person who must pay damages because of the injury.

(e) "Bodily injury" or "property damage" arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, "auto", or watercraft owned or operated by or rented or loaned to the Grantor. Use includes operation and loading and unloading. This exclusion does not apply to:

(1) Parking an "auto" on, or on the ways next to, premises the Grantor owns or rents, provided the "auto" is not owned by or rented or loaned to the Grantor.

(2) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in paragraph (F)2. or (F)3. of the definition of "mobile equipment" (27 CCR, Division 2, Subdivision 1, Chapter 6).

(f) "Property damage" to:

(1) Any property owned, rented, or occupied by the Grantor;

(2) Premises that are sold, given away, or abandoned by the Grantor if the "property damage" arises out of any part of those premises;

(3) Property loaned to the Grantor;

(4) Personal property in the care, custody, or control of the Grantor;

(5) That particular part of real property on which the Grantor or any contractors or subcontractors working directly or indirectly on behalf of the Grantor are performing operations, if the "property damage" arises out of these operations; or

(6) That particular part of any property that must be restored, repaired or replaced because the Grantor's work was incorrectly performed on it.

The Fund is established initially as consisting of the property (cash or securities), which is acceptable to the Trustee, described in Schedule A attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the CIWMB.

Section 4. Payment for Bodily Injury or Property Damage. The Trustee shall satisfy a third party liability claim by making payments from the Fund only on receipt of one of the following documents:

(a) Certification from the Grantor and the Beneficiary that the liability claim should be paid. The certification must be worded as follows:

CERTIFICATION OF VALID CLAIM

The undersigned, as parties [Grantor] and [Name and Address of Beneficiary(ies), hereby certify that the claim of bodily injury and/or property damage caused by an accidental occurrence arising from the operation of [Grantor's] solid waste facility should be paid in the amount of $_____.

_____	_____	___/___/___
Grantor's Signature	Notary	Date
_____	_____	___/___/___
Claimant(s) Signature	Notary	Date

(b) A valid final court order establishing a judgment against the grantor for bodily injury or property damage caused by accidental occurrences arising from the operation of the Grantor's facility or group of facilities.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee may invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines that the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his or her duties with respect to the fund solely in the interest of the potential beneficiaries and with the care, skill, prudence and diligence under the circumstances then prevailing that persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(i) Securities or other obligations of the Grantor, or any other operator or owner of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, Title 15 U.S.C. 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the federal or state government.

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled or collective fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other funds participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, Title 15 U.S.C. 80a-1 et seq., including one that may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depositary even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depositary with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and the CIWMB a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the CIWMB shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting on the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If, for any reason, the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the fund in a writing sent to the Grantor, the CIWMB, and the present Trustee by certified mail ten days before such change becomes effective. Any expenses insured by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instruction to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the CIWMB hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the CIWMB, except as provided for herein.

Section 15. Notice of Nonpayment. If a payment for bodily injury or property damage is made under Section 4 of this fund, the Trustee shall notify the Grantor of such payment and the amount(s) thereof within five (5) working days. The Grantor shall, within one year of such payment, either make payments to the Trustee in amounts sufficient to cause the fund to return to its value immediately prior to the payment of claims under Section 4, or shall provide written proof to the Trustee that other financial assurance for operating liability coverage has been obtained equaling the amount necessary to return the fund to its value prior to the payment of claims. If the Grantor does not either make payments to the Trustee or provide the Trustee with such proof, the Trustee shall, within 10 working days after the anniversary date of the payment, provide a written notice of nonpayment to the CIWMB.

Section 16. Amendment of Agreement. This agreement may be amended by an instrument in writing executed by the Grantor, Trustee, and the CIWMB, or by the Trustee and the CIWMB if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Fund shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the CIWMB, or by the Trustee and the CIWMB, if the Grantor ceases to exist. Upon termination of the Fund, all remaining trust property, less final fund administration expenses, shall be delivered to the Grantor. The CIWMB will agree to termination of the fund when the operator substitutes alternate financial assurance as specified in 27 CCR, Division 2, Subdivision 1, Chapter 6 or is released as specified in 27 CCR, Division 2, Subdivision 1, Chapter 6.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Fund, or in carrying out any directions by the Grantor or the CIWMB issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act in conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of California.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify and sign under penalty of perjury that the information in this document is true and correct to the best of his or her knowledge, and is being executed in accordance with the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter6.

Signature of Grantor:	Title:
Typed or Printed Name of Person Signing:	Seal:
Attest: Title	
Signature of Trustee:	Title:
Typed or Printed Name of Person Signing:	Seal:
Attest: Title	

PRIVACY STATEMENT

The Information Practices Act (California Civil Code Section 1798.17) and the Federal Privacy Act (5 U.S.C. 552a(e)(3)) require that this notice be provided when collecting personal information from individuals.

AGENCY REQUESTING INFORMATION: California Integrated Waste Management Board.

UNIT RESPONSIBLE FOR MAINTENANCE OF FORM: Financial Assurances Section, California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025. Contact the Manager, Financial Assurances Section, at (916) 341-6000.

AUTHORITY: Public Resources Code section 43600 et seq.

PURPOSE: The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed.

REQUIREMENT: Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.

OTHER INFORMATION: After review of this document, you may be requested to provide additional information regarding the acceptability of this mechanism.

ACCESS: Information provided in this form may be provided to the U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Department of Toxic Substances Control, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025, (916) 341-6000.

EXHIBIT A

FUND AGREEMENT BY AND BETWEEN _____

AND THE _____

As provided in Section 14 of the Fund Agreement, the persons, other than the officials of the CIWMB identified in Section 14 of the Fund Agreement, who, until this Exhibit A is amended, shall have the authority to make orders, requests, and instructions to the Trustee are the following:

Officials of the Grantor who have authority to give instructions:

Name: _____

Title: _____

Any orders, requests or instructions by the Grantor to the Trustee, pursuant to the foregoing Agreement, may be signed by any one or more of the following persons:

Name: _____

Title: _____

ENVIRONMENTAL LIABILITY FUND AGREEMENT

SCHEDULE A

This Agreement demonstrates financial assurance for the following liability coverage amounts for the following facility(ies):

Facility Information Number	Name of Facility	Address of Facility	Coverage Amounts for Which Financial Assurance is Being Demonstrated by This Agreement
			Per Occurrence: _____ Annual Aggregate: _____

(Attach addendum for additional facilities)

The fund is established initially as consisting of the following:

$_____, _____ as evidenced by _____ Check Number _____,
(Spell out dollar amount) (Name of institution drawn on)

dated __/__/__.

I hereby certify that funds have been received and deposited.

Authorized Signature:	Title:
Typed or Printed Name of Person Signing: Phone Number of Person Signing:	Address:

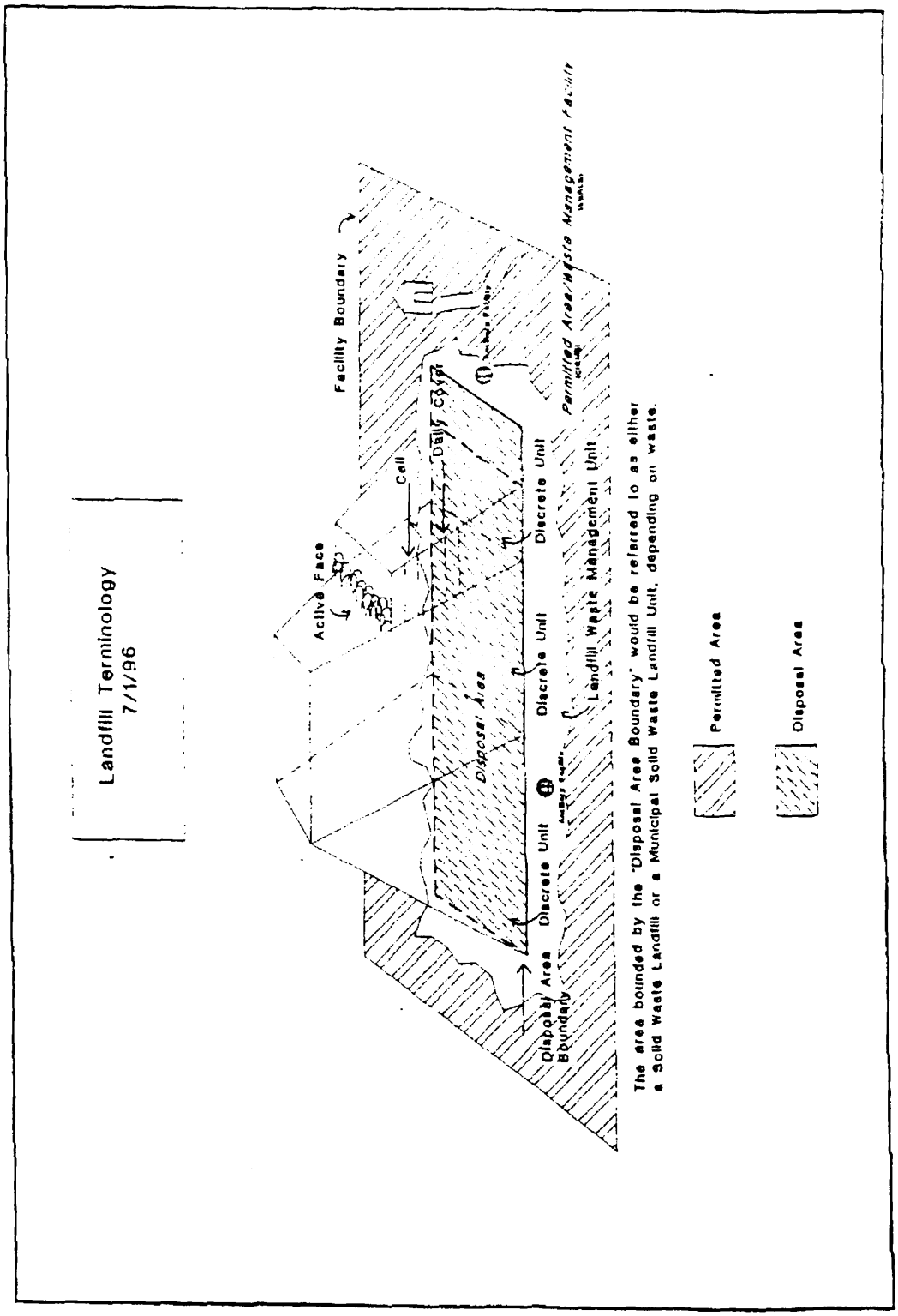
HISTORY

1. Editorial correction adding inadvertently omitted Appendix 3 (Register 97, No. 50).
2. Amendment of form CIWMB 106 filed 5–9–2002; operative 6–8–2002 (Register 2002, No. 19).
3. Change without regulatory effect amending forms 100, 101, 102(a), 102(b), 103(a), 103(b), 103(c), 104, 105, 106, 107, 108, 109, 110 and 111 filed 6–21–2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 25).
4. Editorial correction of CIWMB forms 107 and 108 (Register 2002, No. 26).
5. Editorial correction of CIWMB form 106 (Register 2002, No. 27).
6. Editorial correction adding HISTORIES 3–5, amending table of contents to appendix III and including inadvertently omitted amendments to CIWMB Forms 100, 101, 102(a), 102(b), 103(a), 103(b), 103(c), 104, 105, 106, 107, 108, 109, 110 and 111 (Register 2003, No. 22).
7. Editorial correction of HISTORY 6 (Register 2003, No. 24).
8. Amendment of forms CIWMB 100 and CIWMB 104 filed 2–25–2008; operative 2–25–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 9).

Appendix 4

Landfill Terminology

[Temporary Note: The graphic for landfill terminology is contained herein, and is proivded as a guidance document only. This graphic has no regulatory effect.]



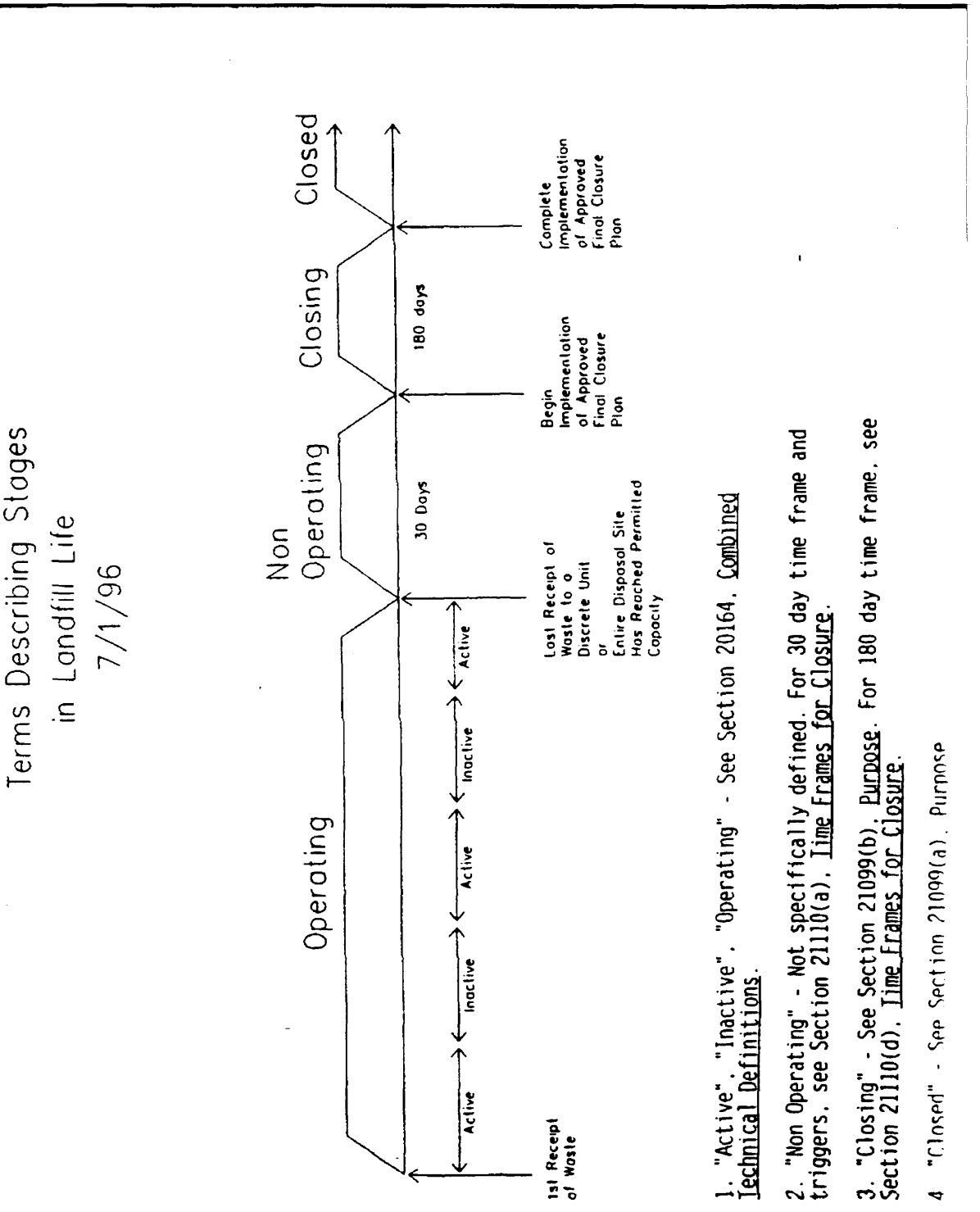
HISTORY

1. Editorial correction adding inadvertently omitted Appendix 4 (Register 97, No. 50).

Appendix 5

Terms Describing Stages in Landfill Life

[Temporary Note: The timeline for Closure is contained herein, and is provided as guidance only. This timeline has no regulatory effect.]



HISTORY

1. Editorial correction adding inadvertently omitted Appendix 5 (Register 97, No. 50).

* * *

Barclays Official

CALIFORNIA CODE OF REGULATIONS

Title 27. Environmental Protection

Division 3. Electronic Submittal of Information

Vol. 37

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Division 3. Electronic Submittal of Information

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Division 3. Electronic Submittal of Information

Subdivision 1. Data Dictionary for Regulated Activities

Chapter 1. Facility Information

ACRONYMS

AA — Authorizing Agency
AN — Alpha-numeric
AST — Aboveground Storage Tank
ATG — Automatic Tank Gauging
BOE — Board of Equalization
CA — Conditionally Authorized
Cal/EPA — California Environmental Protection Agency
Cal/ARP — California Accidental Release Prevention
CAS — Chemical Abstract Number
CCR — California Code of Regulations
CD — Certificate of Deposit
CE — Conditionally Exempt
CE-CL — Conditionally Exempt — Commercial Laundry
CEL — Conditionally Exempt — Limited
CESQT — Conditionally Exempt Small Quantity Treatment
CESW — Conditionally Exempt — Specified Wastestreams
CFO — Chief Financial Officer
CFR — Code of Federal Regulations
CUPA — Certified Unified Program Agency
DBA — Doing Business As
DOT — United States Department of Transportation
DTSC — Department of Toxic Substances Control
EHS — Extremely Hazardous Substance
EPA — United States Environmental Protection Agency
EPCRA — Emergency Planning and Community Right to Know Act
FRP — Fiberglass Reinforced Plastic
FTU — Fixed Treatment Unit
HDPE — High Density Polyethylene
HHW — Household Hazardous Waste
HMRRP — Hazardous Materials Release Response Plans
HSC — Health and Safety Code
HW — Hazardous Waste
ID — Identification
IUPAC — International Union of Pure and Applied Chemistry
LIA — Local Implementing Agency
LQG — Large Quantity Generator
MSDS — Material Safety Data Sheet
MTG — Manual Tank Gauging
NPDES — National Pollutant Discharge Elimination System
OES — Office of Emergency Services
PA — Participating Agency
PBR — Permit by Rule
POTW — Publicly Owned Treatment Works
Q/A — Quality Assurance
Q/C — Quality Control
RCRA — Resource Conservation and Recovery Act
RMP — Risk Management Plan
SIC — Standard Industrial Classification
SIR — Statistical Inventory Reconciliation
SPCC — Spill Prevention Control and Countermeasures
SWRCB — State Water Resources Control Board
TTU — Transportable Treatment Unit
U.S. EPA — United States Environmental Protection Agency
UP — Unified Program
UPCF — Unified Program Consolidated Form
UST — Underground Storage Facility

HISTORY

1. New division 3 (subdivisions 1–2), subdivision 1 (chapters 1–2), chapter 1 and list of acronyms filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).

1. Business Activities

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
1	Facility ID Number	2 AN county 3 AN jurisdiction 6 AN facility number	11	AN	Number to allow cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.
2	EPA ID Number	12 digit identifier beginning with CA	12	AN	EPA identification number for businesses that generate, recycle, or treat hazardous waste. For facilities in California, the number usually starts with the letters 'CA'. The number can be obtained from the Telephone Information Center at (916) 324-1781, (800) 61-TOXIC or (800) 618-6942.
3	Business Name	Postal standard: 2 lines, 35 characters	70	AN	Full legal name of business.
4	Hazardous Materials On Site	Y or N	1	AN	Business must report that it has hazardous materials on site if: - it is handled in quantities equal to or greater than 500 pounds, 55 gallons, or 200 cubic feet of gas (calculated at standard temperature and pressure), - it is handled in quantities equal to or greater than the applicable federal threshold planning quantity for an extremely hazardous substance listed in 40 CFR Part 355, Appendix A, - radioactive materials are handled in quantities for which an emergency plan is required to be adopted pursuant to Part 30, Part 40, or Part 70 of Chapter 10 of 10 CFR, or pursuant to Section 25503.5(a) of the Health and Safety Code. Triggers requirement for chemical description data elements.
4a	CalARP Regulated Substances	Y or N	1	AN	Business must report that it has Regulated Substances stored onsite in quantities greater than the threshold quantities established by the California Accidental Release Prevention Program (CalARP) pursuant to 19 CCR 2770.5.
5	Own or Operate Underground Storage Tank	Y or N	1	AN	Facility must report if it owns or operates USTs containing hazardous substances defined in HSC 25316. Triggers requirement for UST facility and tank data elements.
6	Upgrade/Install Underground Storage Tank	Y or N	1	AN	Facility must report if it intends to install or upgrade USTs containing hazardous substances defined in HSC 25316. Triggers requirement for UST installation data elements.
7	Underground Storage Tank Closure	Y or N	1	AN	Facility must report if a UST which held hazardous materials is being closed in place. Triggers requirement for UST closure data elements.
8	Own or Operate Aboveground Petroleum Storage Tank	Y or N	1	AN	Facility must report if it stores petroleum in aboveground tanks. "Petroleum" means crude oil or any fraction thereof, which is liquid at 60 degrees Fahrenheit temperature and 14.7 pounds per square inch absolute pressure (HSC 25270.2(g)). The facility must report if any ASTs total facility storage capacity (aggregate) exceeds 1320 gallons. "Storage tank" does not include any of the following: - a pressure vessel or boiler which is subject to Division 5 of the Labor Code, - a storage tank containing hazardous waste if a hazardous waste facilities permit has been issued for the storage tank by DTSC, - an aboveground oil production tank which is regulated by the Division of Oil and Gas, or - certain oil-filled electrical equipment including but not limited to transformers, circuit breakers, or capacitors.
9	Hazardous Waste Generator	Y or N	1	AN	Facility must report if it generates hazardous waste. "Hazardous waste" means a waste that meets any of the criteria for the identification of a hazardous waste adopted by the department pursuant to HSC 25141. "Hazardous waste" includes, but is not limited to, RCRA hazardous waste. Unless expressly provided otherwise, the term "hazardous waste" shall be understood to also include extremely hazardous waste and acutely hazardous waste. Triggers requirement to obtain and provide EPA identification number.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
10	Recycle	Y or N	1	AN	Facility must report if it recycles more than 100 kilograms per month of recyclable material under a claim that the material qualifies for exclusion or exemption pursuant to HSC.25143.2. This includes onsite and offsite facilities that recycle under this law. Triggers requirement for Recyclable Materials data elements. Persons that send recyclable material offsite to be recycled and that do not recycle onsite are not included in this category.
11	Onsite Hazardous Waste Treatment	Y or N	1	AN	Facility must report if it treats hazardous waste under an onsite tier. "Treatment" means any method, technique, or process which is designed to change the physical, chemical, or biological character or composition of any hazardous waste or any material contained therein, or removes or reduces its harmful properties or characteristics for any purpose. "Treatment" does not include the removal of residues from manufacturing process equipment for the purposes of cleaning that equipment. Amendments (effective 1/1/99) add exemptions from the definition of "treatment" for certain processes under specific, limited conditions. Refer to HSC 25123.5(b) for these specific exemptions. Treatment of certain laboratory hazardous wastes do not require treatment. Refer to HSC25200.3.1 for specific information. Contact CUPA to determine if any exemptions or exclusions apply. Triggers requirement for onsite hazardous waste treatment data elements.
12	Financial Assurance	Y or N	1	AN	Facilities that treat hazardous waste under PBR or CA tiers are required to provide financial assurance for closure costs (per 22 CCR 67450.13(b), HSC 25245.4), unless they are exempt. Triggers requirement for financial assurance data elements.
13	Remote Waste Consolidation Site	Y or N	1	AN	Facilities must report if they collect hazardous waste initially at remote sites and subsequently transport the hazardous waste to a consolidation site they operate pursuant to HSC 25110.10. Triggers requirement for remote hazardous waste consolidation data elements.
14	Hazardous Waste Tank Closure	Y or N	1	AN	Facilities must report if the tank being closed would be classified as hazardous waste, after its contents are removed. Classification could be based on: - the facility's knowledge of the tank and its contents, - testing of the tank, - inability to remove hazardous materials stored in the tank, - the mixture rule, or - the listed wastes in 40 CFR 261.31, 40 CFR 261.32. Triggers requirement for hazardous waste data elements.
14a	RCRA Large Quantity Generator (LQG)	Y or N	1	AN	Generate in any single calendar month 1,000 kilograms (kg) (2,200 pounds) or more of federal RCRA hazardous waste, or generate in any single calendar month, or accumulate at any time, 1 kg (2.2 pounds) of RCRA acute hazardous waste; or generate or accumulate at any time more than 100 kg (220 pounds) of spill cleanup materials contaminated with RCRA acute hazardous waste.
14b	HHW Collection	Y or N	1	AN	Facilities must report if they collect hazardous waste as a Household Hazardous Waste (HHW) Collection site.
15	Local Requirements				For local use only. This space may be used by the CUPA to collect any additional information necessary to meet the requirements of their individual programs. Contact CUPA for guidance.

HISTORY

1. New table filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).
2. Amendment filed 12–18–2007; operative 1–17–2008 (Register 2007, No. 51).

Business Owner/Operator Identification

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
1	Facility ID Number	2 AN county 3 AN jurisdiction 6 AN facility number	11	AN	Number to allow cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.
3	Business Name	Postal standard: 2 lines, 35 characters	70	AN	Full legal name of business.
100	Beginning Date	YYYYMMDD	8	D	Beginning year and date of report.
101	Ending Date	YYYYMMDD	8	D	Ending year and date of report.
102	Business Phone	Area code + 7 digit phone number + extension	15	AN	Phone number of this site.
102a	Business Fax	Area code + 7 digit phone number + extension	15	AN	Fax number of this site.
103	Business Site Address	Postal standard: 2 lines, 35 characters	70	AN	Street address where facility is located. No post office box numbers are allowed. This information must provide a means to geographically locate the facility.
104	City (Business)	Postal standard	20	AN	City or unincorporated area in which business site is located.
105	Zip Code (Business)	Postal standard	9	AN	Zip code of business site.
106	Dun & Bradstreet	D-U-N-S (data universal numbering system) 9 digit number	9	AN	Dun & Bradstreet D-U-N-S number for facility. The Dun & Bradstreet number may be obtained by calling (610) 882-7748 or by Internet.
107	SIC Code	Standard Industrial Classification (SIC) Code 4 digit number	4	AN	Standard Industrial Classification (SIC) Code number for primary business activity. If code is more than 4 digits, report only the first four.
107a	NAICS Code	North American Industrial Classification System (NAICS) Number	6	AN	Standard for use by Federal statistical agencies in classifying business establishments for the collection, analysis, and publication of statistical data related to the business economy of the U.S. Will replace SIC Code.
108	County		20	AN	County in which business site is located.
108a	Business Mailing Address	Postal standard: 2 lines, 35 characters	70	AN	Mailing address of business, if different from business site address.
108b	Business City	Postal standard	20	AN	City for business mailing address.
108c	Business State	Postal standard	2	AN	State for business mailing address.
108d	Business Zip Code	Postal standard	9	AN	Zip code for business mailing address.
109	Business Operator Name		35	AN	Name of business operator.
110	Business Operator Phone	Area code + 7 digit phone number + extension	15	AN	Phone number of business operator, if different from business phone.
111	Business Owner Name		35	AN	Name of business owner, if different from business operator.
112	Business Owner Phone	Area code + 7 digit phone number + extension	15	AN	Phone number of business owner, if different from business phone.
113	Business Owner Mailing Address	Postal standard: 2 lines, 35 characters	70	AN	Mailing address of owner, if different from business site address.
114	Business Owner City	Postal standard	20	AN	City for owner's mailing address.
115	Business Owner State	Postal standard	2	AN	State for owner's mailing address.
116	Business Owner Zip Code	Postal standard	9	AN	Zip code for owner's mailing address.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
117	Environmental Contact Name		35	AN	Name of person, if different from the business owner/operator, who receives all environmental correspondence and will respond to enforcement activity.
118	Environmental Contact Phone	Area code + 7 digit phone number + extension	15	AN	Phone number of environmental contact, if different from business owner or operator.
119	Environmental Contact Mailing Address	Postal standard: 2 lines, 35 characters	70	AN	Mailing address for all environmental contact correspondence, if different from the site address.
119a	Environmental Contact Email Address		70	AN	Emailing address for all environmental contact correspondence.
120	Environmental Contact City	Postal standard	20	AN	City for environmental contact's mailing address.
121	Environmental Contact State	Postal standard	2	AN	State for environmental contact's mailing address.
122	Environmental Contact Zip Code	Postal standard	9	AN	Zip code for environmental contact's mailing address.
123	Primary Emergency Contact Name		35	AN	Name of a representative that can be contacted in case of an emergency involving hazardous materials at the business site. The contact shall have FULL facility access, site familiarity, and authority to make decisions for the business regarding incident mitigation.
124	Primary Emergency Contact Title		35	AN	Title of primary emergency contact.
125	Primary Emergency Contact Business Phone Number	Area code + 7 digit phone number + extension	15	AN	Business phone number of primary emergency contact.
126	Primary Emergency Contact 24-Hour Phone	Area code + 7 digit phone number + extension	15	AN	Phone number for primary emergency contact which is answered 24 hours a day and, if not the contact's home phone number, then the service answering the phone must be able to immediately contact the above stated individual.
127	Primary Emergency Contact Pager Number	Area code + 7 digit phone number + extension	15	AN	Pager phone number for primary emergency contact, if available.
128	Secondary Emergency Contact Name		35	AN	Name of secondary representative that can be contacted in the event that the primary emergency contact is not available. The contact shall have FULL facility access, site familiarity, and authority to make decisions for the business regarding incident mitigation.
129	Secondary Emergency Contact Title		35	AN	Title of secondary emergency contact.
130	Secondary Emergency Contact Business Phone	Area code + 7 digit phone number + extension	15	AN	Business phone number of secondary emergency contact.
131	Secondary Emergency Contact 24-Hour Phone	Area code + 7 digit phone number + extension	15	AN	Phone number for secondary emergency contact which is answered 24 hours a day and, if not the contact's home phone number, then the service answering the phone must be able to immediately contact the above stated individual.
132	Secondary Emergency Contact Pager Number	Area code + 7 digit phone number + extension	15	AN	Pager phone number for secondary emergency contact, if available.
133	Additional Locally Collected Information	Narrative	255	AN	For local use only. This space may be used for CUPAs or agencies authorized by the Secretary pursuant to HSC 25404.3(f)(2) to collect any additional information necessary to meet the requirements of their individual programs. Contact local agency for guidance.
134	Date Identification Signed	YYYYMMDD	8	D	Date the document was signed.
135	Document Preparer Name (Identification)		35	AN	Full name of person who prepared the submittal information.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
136	Name of Signer of Identification		35	AN	Full name of person signing the page. The signer certifies to a familiarity with the information submitted and that based on their inquiry of those individuals responsible for obtaining the information, all the information submitted is true, accurate and complete.
137	Title of Signer of Identification		35	AN	Title of person signing the page.

HISTORY

1. New table filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).
2. Amendment filed 12–18–2007; operative 1–17–2008 (Register 2007, No. 51).

Chapter 2. Hazardous Materials

Hazardous Materials Inventory — Chemical Description

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
1	Facility ID Number	2 AN county 3 AN jurisdiction 6 AN facility number	11	AN	Number to allow cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.
3	Business Name		70	AN	Full legal name of business.
200	Add / Delete / Revise	a = add d = delete r = revise	1		Indicates if material is being added to the inventory, deleted from the inventory or if the information previously submitted is being revised. Not required for electronic data collection. NOTE: This field may be empty if entire inventory is resubmitted annually.
201	Chemical Location (Inventory)	Narrative	140	AN	Building or outside/adjacent area where hazardous material is handled. A chemical that is stored at the same pressure and temperature, in multiple locations within a building, may be reported on a single page. NOTE: This information is not subject to public disclosure pursuant to HSC 25506.
202	Chemical Location Confidential - EPCRA	Y or N	1	AN	If the business is subject to the Emergency Planning and Community Right to Know Act (EPCRA) this field indicates whether the business wishes to keep chemical location information confidential.
203	Map Number	Optional field	15	AN	If a map is included, number of map on which the location of the hazardous material is shown.
204	Grid Number	Optional field	15	AN	If grid coordinates are used, coordinates of map that correspond to the location of the hazardous material. If applicable, multiple grid coordinates can be listed.
205	Chemical Name	Narrative	60	AN	Proper chemical name associated to the Chemical Abstract Service (CAS) number of the hazardous material. This should be the International Union of Pure and Applied Chemistry (IUPAC) name found on the Material Safety Data Sheet (MSDS). NOTE: If the chemical is a mixture, do not complete this field; complete the "common name" field instead.
206	Trade Secret	Y or N	1	AN	Indicates if information in this section is declared a trade secret. If business is not subject to EPCRA, trade secret information is bound by State requirements, as defined in HSC 25511. If business is subject to EPCRA, trade secret information is bound by Federal requirements, as defined in 40 CFR and business must submit a "Substantiation to Accompany Claims of Trade Secrecy" form (40 CFR 350.27) to U.S. EPA.
207	Common Name (Inventory)		60	AN	Common name or trade name of hazardous material or mixture containing a hazardous material.
208	EHS	Y or N	1	AN	Indicates if hazardous material is an Extremely Hazardous Substance (EHS), as defined in 40 CFR Part 355, Appendix A. If the material is a mixture containing an EHS, do not complete this field; report on the individual hazardous components in the appropriate section below.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
209	CAS #	Chemical Abstract Service number	15	AN	Chemical Abstract Service (CAS) number for the hazardous material. For mixtures, enter the CAS # of the mixture if it has been assigned a number distinct from its components. If the mixture has no CAS #, do not complete this field; report the CAS #s of the individual hazardous components in the appropriate section below.
210	Fire Code Hazard Classes	Narrative	60	AN	May be required by the CUPA. Fire Code Hazard Classes describe to first responders the type and level of hazardous materials which a business handles. A list of the various hazard classes and instructions on how to determine which class a material falls under are included in the appendices of the Uniform Fire Code Article 80. If a material has more than one applicable hazard class, include all. Contact CUPA for guidance.
211	Hazardous Material Type (Inventory)	a = pure b = mixture c = waste	1	AN	Type of hazardous material. If waste material, check only that box. If mixture or waste, complete the individual hazardous components section below.
212	Radioactive	Y or N	1	AN	Indicates whether the hazardous material stored is radioactive.
213	Curies	9 digits with floating decimal	10	N	Activity in curies if the hazardous materials stored is radioactive.
214	Physical State	a = solid b = liquid c = gas	1	AN	Physical state of the hazardous material stored.
215	Largest Container	Maximum 13 digit number, report units in item 221.	13	N	Total capacity of largest container in which material is stored.
216a	Federal Hazard Category = fire	Y or N	1	AN	Physical and health hazards associated with hazardous material. FIRE: Flammable liquids and solids, combustible liquids, pyrophorics, oxidizers.
216b	Federal Hazard Category = reactive	Y or N	1	AN	Physical and health hazards associated with hazardous material. REACTIVE: Unstable reactive, organic peroxides, water reactive, radioactive.
216c	Federal Hazard Category = pressure release	Y or N	1	AN	Physical and health hazards associated with hazardous material. PRESSURE RELEASE: Explosives, compressed gases, blasting agents.
216d	Federal Hazard Category = acute health	Y or N	1	AN	Physical and health hazards associated with hazardous material. ACUTE HEALTH (Immediate): Highly toxic, toxic, irritants, sensitizers, corrosives, other hazardous chemicals with an adverse effect with short term exposure.
216e	Federal Hazard Category = chronic health	Y or N	1	AN	Physical and health hazards associated with hazardous material. CHRONIC HEALTH (Delayed): Carcinogens, other hazardous chemicals with an adverse effect with long term exposure.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
217	Average Daily Amount	Maximum 15 digit number. This amount should be consistent with the units reported in item 221. NOTE: This amount should not exceed that of maximum daily amount.	15	N	Average daily amount of hazardous material or mixture containing a hazardous material in each building or adjacent/outside area. Calculations are based on previous year's inventory of material reported on this page by totaling all daily amounts and dividing by the number of days the chemical will be present on the site. If this is a material that has not previously been present at this location the amount is the average daily amount projected to be on hand during the course of the year.
218	Maximum Daily Amount	Maximum 15 digit number. This amount should be consistent with the units reported in item 221.	15	N	Maximum amount of each hazardous material or mixture containing a hazardous material handled in a building or adjacent/outside area at any one time over the course of the year. This amount must contain at a minimum last year's inventory of the material reported on this page, with the reflection of additions, deletions, or revisions projected for the current year.
219	Annual Waste Amount	Maximum 15 digit number	15	N	Estimate of annual amount handled, if the hazardous material is a waste.
220	State Waste Code	California 3-digit hazardous code	3	AN	California 3-digit hazardous waste code as listed on the back of the Uniform Hazardous Waste manifest, if the hazardous material is a hazardous waste.
221	Units (Inventory)	a = cubic feet b = pounds c = tons d = gallons	1	AN	Unit of measure which is most appropriate for the material being reported on this page. NOTE: If the material is a federally defined Extremely Hazardous Substance (EHS), all amounts must be reported in pounds. If material is a mixture containing an EHS, report the units that the material is stored in (gallons, pounds, cubic feet, or tons).
222	Days on Site		3	N	Total number of days during the year material is on site.
223a	Storage Container = aboveground tank	Y or N	1	AN	Type of storage container in which hazardous material is stored.
223b	Storage Container = underground tank	Y or N	1	AN	See description in item 223a above.
223c	Storage Container = tank inside building	Y or N	1	AN	See description in item 223a above.
223d	Storage Container = steel drum	Y or N	1	AN	See description in item 223a above.
223e	Storage Container = plastic / nonmetallic drum	Y or N	1	AN	See description in item 223a above.
223f	Storage Container = can	Y or N	1	AN	See description in item 223a above.
223g	Storage Container = carboy	Y or N	1	AN	See description in item 223a above.
223h	Storage Container = silo	Y or N	1	AN	See description in item 223a above.
223i	Storage Container = fiber drum	Y or N	1	AN	See description in item 223a above.
223j	Storage Container = bag	Y or N	1	AN	See description in item 223a above.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
223k	Storage Container = box	Y or N	1	AN	See description in item 223a above.
223l	Storage Container = cylinder	Y or N	1	AN	See description in item 223a above.
223m	Storage Container = glass bottle	Y or N	1	AN	See description in item 223a above.
223n	Storage Container = plastic bottle	Y or N	1	AN	See description in item 223a above.
223o	Storage Container = tote bin	Y or N	1	AN	See description in item 223a above.
223p	Storage Container = tank truck, tank wagon	Y or N	1	AN	See description in item 223a above.
223q	Storage Container = tank car, rail car	Y or N	1	AN	See description in item 223a above.
223r	Storage Container = other	Narrative	30	AN	See description in item 223a above.
224	Storage Pressure	a = ambient b = below ambient c = above ambient	1	AN	Pressure at which hazardous material is stored.
225	Storage Temperature	a = ambient b = below ambient c = above ambient d = cryogenic	1	AN	Temperature at which hazardous material is stored.
226	Hazardous Component 1 Percent by Weight	2.2 (implied decimal)	4	N	Percentage weight of hazardous component in a mixture. If a range of percentages is available, report the highest percentage in that range.
227	Hazardous Component 1 Name	Narrative	80	AN	Chemical name of hazardous component in a mixture (refer to MSDS or, in the case of trade secrets, refer to manufacturer). All hazardous components in the mixture present at greater than 1% by weight if non-carcinogenic, or 0.1% by weight if carcinogenic, should be reported. If more than five hazardous components are present above these percentages, the business may submit an additional sheet of paper to capture the required information. Information on more than five components is not submitted electronically unless the CUPA has established local standards. When reporting a waste mixture, mineral and chemical composition should be listed.
228	Hazardous Component 1 EHS	Y or N	1	AN	Indicates if the component of the mixture is considered an Extremely Hazardous Substance as defined in 40 CFR Part 355.
229	Hazardous Component 1 CAS #		15	AN	Chemical Abstract Service (CAS) number related to hazardous component in the mixture.
230	Hazardous Component 2 Percent by Weight	2.2 (implied decimal)	4	N	See description in item 226.
231	Hazardous Component 2 Name		80	AN	See description in item 227.
232	Hazardous Component 2	Y or N	1	AN	See description in item 228.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
233	Hazardous Component 2 CAS #		15	AN	See description in item 229.
234	Hazardous Component 3 Percent by Weight	2.2 (implied decimal)	4	N	See description in item 226.
235	Hazardous Component 3 Name		80	AN	See description in item 227.
236	Hazardous Component 3 EHS	Y or N	1	AN	See description in item 228.
237	Hazardous Component 3 CAS #		15	AN	See description in item 229.
238	Hazardous Component 4 Percent by Weight	2.2 (implied decimal)	4	N	See description in item 226.
239	Hazardous Component 4 Name		80	AN	See description in item 227.
240	Hazardous Component 4 EHS	Y or N	1	AN	See description in item 228.
241	Hazardous Component 4 CAS #		15	AN	See description in item 229.
242	Hazardous Component 5 Percent by Weight	2.2 (implied decimal)	4	N	See description in item 226.
243	Hazardous Component 5 Name		80	AN	See description in item 227.
244	Hazardous Component 5 EHS	Y or N	1	AN	See description in item 228.
245	Hazardous Component 5 CAS #		15	AN	See description in item 229.
If more than five hazardous components are present at greater than 1% by weight if non-carcinogenic, or 0.1% by weight if carcinogenic, the information is not submitted electronically unless the CUPA has established local data standards.					
246	Additional Locally Collected Information		255	AN	For local use only. This space may be used by the CUPA to collect any additional information necessary to meet the requirements of their individual programs. Contact CUPA for guidance.

HISTORY

1. New chapter 2 and table filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).
2. Amendment filed 12–18–2007; operative 1–17–2008 (Register 2007, No. 51).

Chapter 3. Underground Storage Tank

A. UST Operating Permit Application–Facility Information

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
1	Facility ID Number	2 AN county 3 AN jurisdiction 6 AN facility number	11	AN	Number to allow cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.
3	Business Name		70	AN	Full legal name of business.
103	Business Site Address	Postal standard: 2 lines, 35 characters	70	AN	Street address where facility is located. No post office box numbers are allowed. This information must provide a means to geographically locate the facility.
104	City (Business)	Postal standard	20	AN	City or unincorporated area in which business site is located.
400	Type of Action	1 = new permit 3 = renewal permit 5 = change of information 6 = temporary facility closure 7 = permanent facility closure 9 =Transfer Permit	1	AN	Reason page is being submitted.
403	Facility Type (UST Facility)	1 = motor vehicle fueling 2 = fuel distribution 3 = farm 4 = processor 6 = other	1	AN	Type of UST facility.
404	Total Number of USTs at Facility		4	N	Number of USTs remaining on the site after requested action.
405	Indian or Trust Land	Y or N	1	AN	Indicates if facility is located on Indian reservation or other trust lands.
406	Supervisor of Division, Section, or Office (Required for Public Agencies Only)		35	AN	Contact person for tank records, if facility owner is a public agency.
407	Property Owner Name		35	AN	Name of property owner.
408	Property Owner Phone	Area code + 7 digit phone number + extension	15	AN	Phone number of property owner.
409	Property Owner Mailing Address	Postal standard: 2 lines, 35 characters	70	AN	Mailing address of property owner.
410	Property Owner City	Postal standard	20	AN	City of property owner.
411	Property Owner State	Valid 2-digit state code	2	AN	State of property owner.
412	Property Owner Zip Code	Postal standard	9	AN	Zip code of property owner.
414	Tank Owner Name		35	AN	Name of tank owner.
415	Tank Owner Phone	Area code + 7 digit phone number + extension	15	AN	Phone number of tank owner, if different from business owner on UPCF Business Owner/Operator Identification page.
416	Tank Owner Mailing Address	Postal standard: 2 lines, 35 characters	70	AN	Mailing address of tank owner, if different from business owner on UPCF Business Owner/Operator Identification page.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
417	Tank Owner City	Postal standard	20	AN	City of tank owner, if different from business owner on UPCF Business Owner/Operator Identification page.
418	Tank Owner State	Valid 2-digit state code	2	AN	State of tank owner, if different from business owner on UPCF Business Owner/Operator Identification page.
419	Tank Owner Zip Code	Postal standard	9	AN	Zip code of tank owner if different from business owner on UPCF Business Owner/Operator Identification page.
420	Tank Owner Type	4 = local agency / district 5 = county agency 6 = state agency 7 = federal agency 8 = non-government	1	AN	Type of UST owner.
421	BOE Number	BOE 8 digit number, first two digits = 44	8	AN	Board of Equalization (BOE) UST storage fee account number. This number is required before a permit application can be processed. Registration with the BOE will ensure that you will receive a quarterly storage fee return in reporting the $0.014 per gallon fee due on the number of gallons placed in your USTs. The BOE will code persons exempt from paying the storage fee so returns will not be sent. If you do not have an account number with the BOE or if you have any questions regarding the fee or exemptions, please call the BOE at (916) 322-9669 or write to the BOE at the following address: State Board of Equalization Fuel Industry Section, MIC:30 P.O. Box 942879 Sacramento, CA 94279-0030
422-1	Petroleum UST Financial Responsibility Code = self-insured	Y or N	1	AN	Method(s) used by owner and/or operator in meeting the Federal and State financial responsibility requirements. USTs owned by any Federal or State agency as well as non-petroleum USTs are exempt from this requirement.
422-2	Petroleum UST Financial Responsibility Code = guarantee	Y or N	1	AN	See description in item 422-1.
422-3	Petroleum UST Financial Responsibility Code = insurance	Y or N	1	AN	See description in item 422-1.
422-4	Petroleum UST Financial Responsibility Code = surety bond	Y or N	1	AN	See description in item 422-1.
422-5	Petroleum UST Financial Responsibility Code = letter of credit	Y or N	1	AN	See description in item 422-1.
422-6	Petroleum UST Financial Responsibility Code = exemption	Y or N	1	AN	See description in item 422-1.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
422-8	Petroleum UST Financial Responsibility Code = State Fund and CFO letter	Y or N	1	AN	See description in item 422-1.
422-9	Petroleum UST Financial Responsibility Code = State Fund and CD	Y or N	1	AN	See description in item 422-1.
422-10	Petroleum UST Financial Responsibility Code = local government mechanism	Y or N	1	AN	See description in item 422-1.
422-99	Petroleum UST Financial Responsibility Code = other	Narrative	30	AN	See description in item 422-1.
423	Permit Holder Information	1 = facility owner 3 = tank owner 4 = tank operator 5 = facility operator	1	AN	Party to whom UST permit is to issued and legal notifications and mailings should be sent.
424	Date Certified (UST Facility)	YYYYMMDD	8	D	Date the page was signed.
425	Applicant Phone (UST Facility)	Area code + 7 digit phone number + extension	15	AN	Phone number of applicant (person certifying).
426	Applicant Name (UST Facility)		35	AN	Name of signatory. The applicant certifies to a belief that all the information submitted is accurate and complete. The applicant may be the Owner/Operator or officially designated representative.
427	Applicant Title (UST Facility)		35	AN	Title of person signing the page.
428-1	Tank Operator Name		35	AN	Name of UST operator.
428-2	Tank Operator Phone	Area code + 7 digit phone number + extension	15	AN	Phone number of UST operator, if different from business owner on UPCF Business Owner/Operator Identification page.
428-3	Tank Operator Mailing Address	Postal standard: 2 lines, 35 characters	70	AN	Mailing address of UST operator, if different from business owner.
428-4	Tank Operator City	Postal standard	20	AN	City of UST operator, if different from business owner.
428-5	Tank Operator State	Valid 2-digit state code	2	AN	State of UST operator, if different from business owner.
428-6	Tank Operator Zip Code	Postal standard	9	AN	Zip code of UST operator, if different from business owner.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
1	Facility ID Number	2 AN county- 3 AN jurisdiction 6 AN facility number.	11	AN	Number to allow cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CU This is the unique number which identifies the facility.
3	Business Name	Postal standard: 2 lines, 35 characters	70	AN	Full legal name of business.
103	Business Site Address	Postal standard: 2 lines, 35 characters	70	AN	Street address where facility is located. No post office box numbers are allowed. This information must provide a means geographically locate the facility.
104	City (Business)	Postal standard	20	AN	City or unincorporated area in which business site is located.
430	Type of Action (UST Tank)	1 = new permit 3 = renewal permit 5 = change of information 6 = temporary UST closure 7 = UST permanent closure on site 8 = UST removal	1	AN	Reason page is being submitted.
430-a	Date UST Permanently Closed	YYYYMMDD	8	D	Date the UST was permanently closed.
430-b	Date Existing UST Discovered	YYYYMMDD	8	D	Date the existing UST was discovered.
432	Tank ID #		6	AN	This is a unique tank number used by the owner and Local Agency to identify the tank. The Local Agency will assign the T ID# as the permanent State tank identification number.
433	Tank Manufacturer		30	AN	Name of company that manufactured tank.
434	Tank Configuration	1= A stand-alone tank 2= One in a compartmented unit.	1	AN	Indicates if the tank is a stand-alone tank or is part pf a compartmented unit. Each compartment is considered a separ tank and requires the completion of separate tank forms.
435	Date UST System Installed	YYYYMM	6	D	Year and month the tank installation was completed.
436	Tank Capacity In Gallons		7	N	The number of gallons the tank will hold.
437	Number of Compartments in the Unit		2	AN	Number of compartments within a single secondary containme unit if more than one.
438	Additional Description	Narrative	70	AN	For local use only. Additional tank or location description/information.

HISTORY

1. New chapter 3 and table filed 11-16-2004; operative 12-16-2004 (Register 2004, No. 47).
2. Amendment filed 12-18-2007; operative 1-17-2008 (Register 2007, No. 51).

B. UST Operating Permit Application Tank Information

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
439	Tank Use	1a = motor vehicle fueling 1b = marina fueling 1c = aviation fueling 03 = chemical product storage 04 = hazardous waste (includes used oil) 05 = emergency generator fuel 06 = other generator fuel 95 = unknown 99 = other	2	AN	Activity that the tank use supports.
439a	Specify Other	Narrative	15	AN	Specify other tank use.
440	Tank Contents	1a = regular unleaded 1b = premium unleaded 1c = midgrade unleaded 03 = diesel 05 = jet fuel 06 = aviation gas 07 = used oil 08 = petroleum blend fuel 09 = other petroleum 10 = ethanol 11 = other non-petroleum	2	AN	Substance stored in UST.
440a	Specify Other Petroleum	Narrative	15	AN	Specify other petroleum contents.
440b	Specify Other Non-Petroleum	Narrative	15	AN	Specify other non-petroleum contents.
443	Type of Tank	01 = single wall 02 = double wall 95 = unknown	2	AN	Type of tank construction.
444	Tank Primary Containment Construction	01 = steel 03 = fiberglass 06 = internal bladder 07 = steel + internal lining 95 = unknown 99 = other	2	AN	Construction material of the primary tank.
444a	Specify Other	Narrative	15	AN	Specify other construction of the primary containment.
445	Tank Secondary Containment Construction	01 = steel 03 = fiberglass 06 = exterior membrane liner 07 = jacketed 90 = none 95 = unknown 99 = other	2	AN	Construction material of the secondary tank.
445a	Specify Other	Narrative	15	AN	Specify other construction of the primary containment.

ID	Element	Edit Criteria/Codes	Length	Type	Information Description
448	Steel Component Protection	02 = sacrificial anode(s) 04 = impressed current 06 = isolation 90 = none	2	AN	Other tank corrosion protection methods, if applicable.
451-a	1. spill bucket installed	Y or N	1	AN	Indicates that spill buckets are installed.
451-b	3. striker plate / bottom protector installed	Y or N	1	AN	Indicates that a striker plate or bottom protector has been installed.
451-c	4 containment sump	Y or N	1	AN	Indicates that the fill has a containment sump
452	Overfill Prevention	01 = audible & visual alarms 02 = Ball float 03 = fill tube shut-off valve 04 = exempt	2	AN	Overfill prevention hardware installed in UST system.
458	Piping System Type	01 = pressure 02 = gravity 03 = conventional suction 04 = 23 CCR §2636(a)(3) suction	2	AN	Type of underground piping system.
460	Piping Construction	1 = Single-walled 2 = Double-walled 99 = Other	2	AN	Type of underground piping construction.
464	Product/Waste Piping Primary Containment Construction	01 = steel 04 = fiberglass 08 = flexible 10 = rigid plastic 90 = none 95 = unknown 99 = other	2	AN	Construction material of the primary product/waste piping.
464a	Specify Other	Narrative	15	AN	Describe other construction material for the primary containment
464b	Product/Waste Piping Secondary Containment Construction	01 = steel 04 = fiberglass 08 = flexible 10 = rigid plastic 90 = none 95 = unknown 99 = other	2	AN	Construction material of the secondary product/waste piping.
464c	Specify Other	Narrative	15	AN	Describe other construction.
464d	Piping/Turbine Containment Sump	01 = Single-walled 02 = Double-walled 03 = None	2	AN	Designates type of Turbine Containment Sump
464e	Vent Piping Primary Containment Construction	01 = steel 04 = fiberglass 10 = rigid plastic 90 = none 99 = other	2	AN	Construction material of the primary vent piping.

ID	Element	Edit Criteria/Codes	Length	Type	Information Description
464e1	Specify other vent primary containment construction	Narrative	15	AN	Describe other vent primary containment construction material.
464f	Vent Piping Secondary Containment Construction	01 = steel 04 = fiberglass 10 = rigid plastic 90 = none 99 = other	2	AN	Construction material of the secondary vent piping.
464f1	Specify other vent secondary containment construction	Narrative	15	AN	Describe other vent secondary containment construction material.
464g	Vapor Recovery Piping Primary Containment Construction	01 = steel 04 = fiberglass 10 = rigid plastic 90 = none 99 = other	2	AN	Construction material of the primary vapor recovery piping.
464g1	Specify other vapor recovery primary containment construction	Narrative	15	AN	Describe other vapor recovery primary containment construction material.
464h	Vapor Recovery Piping Secondary Containment Construction	01 = steel 04 = fiberglass 10 = rigid plastic 90 = none 99 = other	2	AN	Construction material of the secondary vapor recovery piping.
464h1	Specify other vapor recovery secondary containment construction	Narrative	15	AN	Describe other vapor recovery secondary containment construction material.
464i	Vent Piping Transition Sumps	01 = Single-walled 02 = Double-walled 03 = None	2	AN	Type of Vent piping transition sumps.
464j	Riser Pipe Primary Containment Construction	01 = steel 04 = fiberglass 10 = rigid plastic 90 = none 99 = other	2	AN	Construction material of the primary riser piping.
464j1	Specify other riser pipe primary containment construction	Narrative	15	AN	Describe other riser pipe primary containment construction material.
464k	Riser Pipe Secondary Containment Construction	01 = steel 04 = fiberglass 10 = rigid plastic 90 = none 99 = other	2	AN	Construction material of the riser pipe secondary containment.
464k1	Specify other riser pipe secondary containment construction	Narrative	15	AN	Describe other riser pipe secondary containment construction material.
469a	Under Dispenser Containment Construction Type	01 = Single-walled 02 = Double-walled 03 = No Dispensers	2	AN	Type of Construction of the under dispenser containment sump(s) / pan(s).
469b	Under Dispenser Containment (UDC) Construction Material	01 = steel 04 = fiberglass 10 = rigid plastic 15 = concrete 90 = none 99 = other	2	AN	Construction material of the under dispenser containment sump(s) / pan(s).
469c	Specify Other	Narrative	15	AN	Specify other UDC construction material.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
470	Date Certified	YYYYMMDD	8	D	Date the document was signed.
471	Applicant Name		35	AN	Name of signatory. The applicant certifies to a belief that all the information submitted is accurate and complete.
472	Applicant Title		35	AN	Title of person signing the page.

HISTORY

1. New table filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).
2. Amendment filed 12–18–2007; operative 1–17–2008 (Register 2007, No. 51).

C. UST Certification of Installation/Modification

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
1	Facility ID Number	2 AN county 3 AN jurisdiction 6 AN facility number	11	AN	Number to permit cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.
3	Business Name	Postal standard: 2 lines, 35 characters	70	AN	Full legal name of business.
103	Business Site Address	Postal standard: 2 lines, 35 characters	70	AN	Street address where facility is located. No post office box numbers are allowed. This information must provide a means to geographically locate the facility.
104	City (Business)	Postal standard	20	AN	City or unincorporated area in which business site is located.
482a	Name of Contractor Who Performed Installation/ Modification		20	AN	Name of contractor.
482b	Contractors License Number		20	AN	Contractors License Number who performed the work.
482c	ICC Cert. #		10	AN	Contractors ICC Certification Number.
483a	Type of Project	01 = Tank Installation or Replacement 02 = Piping Installation or Replacement 03 = Sump Installation or Replacement 04 = Under Dispenser containment Installation or Replacement 05 = Other	2	AN	Description of type of installation.
483b	Work Authorized under Permit (Number or Date)		10	AN	Indicates permit number or date of permit authorizing the work being certified.
483c	Description of work being certified.	Narrative	300	AN	Description of installation or modification.
484	Date Certified	YYYYMMDD	8	D	Date tank installation certification was signed.
485	Certifier's Name		35	AN	Name of tank owner or officially designated representative of the owner. The signer certifies to a belief that all the information submitted is accurate and complete.
486	Certifier's Title		35	AN	Title of person signing the page.
487	Phone number	Area code + 7 digit phone number + extension	15	AN	Phone number of applicant (person certifying).
488	Name of Certifier's Employer		35	AN	Name of employer of person signing the page.
489	Certifier's Relationship to Tank Owner	01 = tank owner 02 = tank operator 03 = contractor 04 = property owner 05 = other authorized agent of tank owner.	2	AN	Relationship of person signing the page to the UST owner.

HISTORY

1. New table filed 11-16-2004; operative 12-16-2004 (Register 2004, No. 47).
2. Amendment filed 12-18-2007; operative 1-17-2008 (Register 2007, No. 51).

D. UST Monitoring Plan

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
1	Facility ID Number	2 AN county 3 AN jurisdiction 6 AN facility number	11	AN	Number to permit cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.
3	Business Name	Postal standard: 2 lines, 35 characters	70	AN	Full legal name of business.
103	Business Site Address	Postal standard: 2 lines, 35 characters	70	AN	Street address where facility is located. No post office box numbers are allowed. This information must provide a means to geographically locate the facility.
104	City (Business)	Postal standard	20	AN	City or unincorporated area in which business site is located.
490-1	Type of Action	01 = New plan 02 = Change of Information	2	AN	Reason page is being submitted.
490-2	Plan Type		25	AN	Describes the tanks the plan is for.
490-3a	Monitoring Equipment is serviced.	01 = Annually 99 = Other	2	AN	Describes frequency of service performed on monitoring equipment.
490-3b	Specify other frequency for monitoring equipment service.	Narrative	15	AN	Describes other frequency of service performed on monitoring equipment.
490-4	Site Plot Plan Submitted	1=New Plan Submitted 2=Site Plan Previously Submitted	1		Indicates if a site plan is submitted with this plan or a previously submitted site plan is current for the facility.
490-5	Continuous Electronic Tank Monitoring:	Y or N	1		Indicates if continuous tank monitoring is used at the site.
490-6	Tank Secondary Containment System	01 = Dry 02 = Liquid Filled 03 = Pressurized 04 = Under Vacuum	2	AN	Description of Tank secondary containment system.
490-7	Electronic Monitor Panel Manufacturer		25	AN	Name of electronic monitor panel manufacturer.
490-8	Electronic Monitor Panel Model #		10	AN	Model number of electronic monitor panel.
490-9	Leak Sensor Manufacturer		20	AN	Name of Leak Sensor Manufacturer.
490-10	Leak Sensor Model #		10	AN	Model Number of Leak Sensor.
490-11	Automatic Tank Gauging	Y or N	1	AN	Indicates if this type of monitoring is being performed at the site.
490-12	ATG Panel Manufacturer		25	AN	Name of ATG Panel Manufacturer
490-13	ATG Model #		25	AN	Model of ATG Panel.
490-14	In-Tank Probe Manufacturer		25	AN	Name of ATG Probe manufacturer.
490-15	In-tank Probe Model #		25	AN	Model of ATG Probe.
490-16	Tank Leak Test Frequency	01 = Continuous 02 = Daily/Nightly 03 = Weekly 04 = Monthly 99 = Other	2	AN	Frequency of Tank Leak Test.
490-17	Specify Other Leak Test Frequency	Narrative	10	AN	Other Frequency of Tank Leak Test.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
490-18	Programmed Tank Tests	01 = .01 gph 02 = .2 gph 99 = Other	2	AN	Sensitivity of the programmed leak tests.
490-19	Other Programmed Tests.	Narrative	15	AN	Other designated sensitivity of programmed leak test.
490-20	Monthly Statistical Inventory Reconciliation	Y or N	1		Indicates if inventory reconciliation is being performed at the site.
490-21	Weekly Manual Tank Gauge	Y or N	1		Indicates if Weekly Manual Tank Gauging if being performed at this site.
490-22	Tank gauging Test Period	01 = 36 hours 02 = 60 hours	1		Length of time for Manual Tank Gauging period.
490-23	Tank Integrity testing	Y or N	1		Indicates if Tank Integrity testing is performed at the site.
490-24	Tank integrity Testing Frequency	01 = Annually 02 = Biennially 99 = Other	1		Frequency of Tank Integrity Testing
490-25	Specify Other Tank Integrity Testing Frequency	Narrative	15	AN	Frequency of "Other" Tank Integrity Testing.
490-26	Other Monitoring	Y or N	1		Indicates if another type of monitoring is used at the site, not already indicated.
490-27	Specify other Monitoring.	Narrative	25	AN	Specifies the "other" type of monitoring.
490-28	Continuous monitoring of piping secondary containment	Y or N	1	AN	Indicates if continuous monitoring of the piping secondary containment occurs at the site.
490-29	Piping Secondary Containment	01 = Dry 02 = Liquid-filled 03 = Pressurized 04 = Under Vacuum	1	AN	Type of piping secondary containment
490-30	Panel Manufacturer	Narrative	25	AN	Name of panel manufacturer.
490-31	Panel Model #		15	AN	Model number of panel
490-32	Leak Sensor Manufacturer	Narrative	25	AN	Name of Leak Sensor manufacturer.
490-33	Leak Sensor Model		15	AN	Model of Leak Sensor
490-34	Leak Alarm Triggers Automatic Pump Shutdown	Y or N	1	AN	Indicates pump shutdown when a leak alarm occurs.
490-35	Failure/Disconnect Triggers Pump Shutdown	Y or N	1	AN	Indicates pump shutdown when failure or disconnect occurs.
490-36	Mechanical Line Leak Detector Performs 3 gph leak test.	Y or N	1	AN	Indicates that a 3gph line mechanical line leak detector is used at the site.
490-37	MLLD Manufacturer	Narrative	25	AN	Name of leak detector manufacturer.
490-38	MLLD Model		15	AN	Model of leak detector.
490-39	Electronic Line Leak Detector performs 3 gph Leak Test	Y or N	1	AN	Indicates that an electronic line leak detector (ELLD) is used at the site.
490-40	ELLD Manufacturer	Narrative	25	AN	Manufacturer of ELLD
490-41	ELLD Model		15	AN	Model of ELLD.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
490-42	ELLD Programmed in-line testing	01 = .2 gph 02 = .1 gph	1	AN	Type of ELLD Test performed.
490-43	ELLD Triggers Automatic Pump Shutdown	Y or N	1	AN	Indicates if ELLD triggers automatic pump shutdown.
490-44	ELLD Failure/Disconnect triggers Automatic Shutdown.	Y or N	1	AN	Indicates if ELLD triggers auto-shutdown for failure or disconnection.
490-45	Pipeline Integrity Testing	Y or N	1	AN	Indicates if pipeline integrity testing occurs at the site.
490-46	Pipeline Integrity Testing Frequency	01 = Annually 02 = Every 3 Years 03 = Other	2	AN	Frequency of pipeline integrity testing.
490-47	Specify Other Integrity Testing Frequency		10	AN	Other frequency of pipeline integrity testing.
490-48	Visual Pipeline Monitoring	Y or N	1	AN	Indicates if visual pipeline monitoring occurs at the site.
490-49	Visual Pipeline Monitoring Frequency	01 = Daily 02 = Weekly 03 = Minimum Monthly	2	AN	Frequency of visual pipeline monitoring.
490-50	Suction Piping Meets Exemption Criteria	Y or N	1	AN	Indicates if suction piping that meets the criteria is the method to monitor the pipeline.
490-51	No Regulated Piping Per Health and Safety Code, Division 20, Chapter 6.7 Is Connected To The Tank System	Y or N	1	AN	Indicates that any piping connected to the tank system is not regulated under the UST law, or there is no piping connected to the tank system.
490-52	Other Pipeline Monitoring	Y or N	1	AN	Indicates if other pipeline monitoring option used at site.
490-53	Specify Other Monitoring	Narrative	25	AN	Identifies other monitoring option.
490-54a	UDC Monitoring	1 = Continuous 2 = Float and Chain Assembly 3 = Electronic Stand-alone 4 = No Dispensers 99 = Other	2	AN	Indicates type of UDC monitoring.
490-54b	Specify Other UDC Monitoring	Narrative	15	AN	Indicates type of other UDC monitoring.
490-55	Panel Manufacturer	Narrative	15	AN	Manufacturer of Panel.
490-56	Model # of Panel		15	AN	Model # of Panel.
490-57	Leak Sensor Manufacturer	Narrative	15	AN	Manufacturer of Leak Sensor.
490-58	Model of Leak Sensor		15	AN	Model # of Leak Sensor
490-59	Detection of a leak into the UDC triggers audible and visual alarms	Y or N	1	AN	Indicates if alarms are triggered when a leak is detected in the UDC.
490-60	UDC leak alarm triggers automatic pump shutdown.	Y or N	1	AN	Indicates if leak alarm causes automatic pump shutdown.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
490-61	Failure/Disconnection of UDC monitoring system triggers automatic pump shutdown	Y or N	1	AN	Indicates if failure or disconnection of the monitoring system causes pump shutdown.
490-62	UDC Monitoring stops the flow of product at the dispenser.	Y or N	1	AN	Indicates if the UDC monitor stops the flow of product at the dispenser.
490-63	UDC Construction	1 = Single-walled 2 = Double-walled	1	AN	Indicates the type of UDC construction.
490-64a	UDC Secondary Containment Monitoring	01 = Liquid 02 = Pressure 03 = Vacuum	1	AN	Type of UDC Secondary Containment Monitoring.
490-64b	A Leak Within the Secondary Containment of the UDC causes audible and visual alarms.	Y or N	1	AN	Indicates that a leak in the UDC secondary containment causes audible and visual alarms.
490-65	ELD Testing	Y or N	1	AN	Indicates if tanks are ELD tested on a periodic basis.
490-66	Secondary Containment Testing	Y or N	1	AN	Indicates if secondary containment testing is conducted every 36 months.
490-67	Spill bucket testing	Y or N	1	AN	Indicates if spill bucket testing is conducted annually.
490-68a	Alarm Logs	Y or N	1	AN	Indicates that Alarm log records are kept for the facility.
490-68b	Visual Inspection Records	Y or N	1	AN	Indicates that Visual Inspection Records are kept for the facility.
490-68c	Tank Integrity Testing Results	Y or N	1	AN	Indicates that Tank Integrity Testing Results are kept for the facility.
490-68d	SIR testing results	Y or N	1	AN	Indicates that SIR testing results and supporting documentation records are kept for the facility.
490-68e	Tank Gauging results	Y or N	1	AN	Indicates that Tank Gauging results and supporting documentation records are kept for the facility.
490-68f	ATG Testing Results	Y or N	1	AN	Indicates that ATG Testing Results and supporting documentation records are kept for the facility.
490-68g	Corrosion Protection Logs	Y or N	1	AN	Indicates that Corrosion Protection Logs are kept for the facility.
490-68h	Equipment maintenance and calibration records	Y or N	1	AN	Indicates that Equipment maintenance and calibration records are kept for the facility.
490-69a	Personnel with UST monitoring responsibilities are familiar with training documents	Y or N	1	AN	Indicates that personnel within the facility are familiar with the indicated documents.
490-69b	UST monitoring plan	Y or N	1	AN	Indicates that facility personnel are familiar with the UST monitoring plan for the facility.
490-69c	Operating manuals	Y or N	1	AN	Indicates that facility personnel are familiar with the UST operating manuals for the facility.
490-69d	CA UST Regulations	Y or N	1	AN	Indicates that facility personnel are familiar with the CA UST Regulations.
490-69e	CA UST Law	Y or N	1	AN	Indicates that facility personnel are familiar with the CA UST Law.
490-69f	SWRCB Handbook for Tank Owners-Manual and SIR	Y or N	1	AN	Indicates that facility personnel are familiar with the SWRCB Handbook for Tank Owners-Manual and SIR.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
490-69h	Other	Y or N	1	AN	Indicates that other training documents are used.
490-69i	Specify Other	Narrative	30	AN	Other Training documents are listed.
490-70	Designated Operator Training	Y or N	1	AN	Indicates that the facility has a designated operator and that training will provided.
490-71	Comments and Additional Information	Narrative	150	AN	Additional information to support the application for an operating permit.
490-72	Name of first person having responsibility		25	AN	Name of first person having responsibility for monitoring.
490-73	Title of first person having responsibility		25	AN	Title of first person having responsibility for monitoring.
490-74	Name of second person having responsibility		25		Name of second person having responsibility for monitoring.
490-75	Title of second person having responsibility		25	AN	Title of second person having responsibility for monitoring.
490-76	Signature Representation	01 = Tank Owner/Operator 02 = Facility Owner/Operator 03 = Authorized Representative of Owner	2	AN	Indicates who signed the monitoring plan.
490-77	Date	YYYYMMDD	8	AN	Date Monitoring Plan is certified.
490-78	Applicant Name		25	AN	Name of Applicant signing monitoring plan.
490-79	Applicant Title		25	AN	Title of Applicant signing monitoring plan.

HISTORY

1. New form filed 12-18-2007; operative 1-17-2008 (Register 2007, No. 51).

Chapter 4. Hazardous Waste

A. Recyclable Materials

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
1	Facility ID Number	2 AN county 3 AN jurisdiction 6 AN facility number	11	AN	Number to allow cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.
2	EPA ID Number	12 digit identifier beginning with CA	12	AN	EPA Identification number for businesses that generate, recycle, or treat hazardous waste. For facilities in California, the number usually starts with the letters CA. The number can be obtained from the Telephone Information Center at (916) 324-1781, (800) 61-TOXIC or (800) 618-6942.
3	Business Name	Postal standard: 2 lines, 35 characters	70	AN	Full legal name of the business.
500	Beginning Date of Reporting Period	YYYYMMDD	8	D	Beginning date of the reporting period for this report. This report is for two calendar years and is due on July 1 of every even numbered year per HSC 25143.10(a).
501	Ending Date of Reporting Period	YYYYMMDD	8	D	Ending date of the reporting period for this report. This report is for two calendar years and is due on July 1 of every even numbered year per HSC 25143.10(a).
I. TYPE OF RECYCLING ACTIVITY					
502	Onsite Recycling	Y or N	1	AN	Facility must report if it recycles onsite more than 100 kilograms per month of recyclable material under a claim that the material qualifies for exclusion or exemption pursuant to HSC 25143.2. Triggers requirement to complete parts III and IV of the Recyclable Materials Report.
503	Offsite Recycling	Y or N	1	AN	Facility must report if it recycles more than 100 kilograms per month of recyclable material under a claim that the material qualifies for exclusion received from an offsite location pursuant to HSC 25143.2. Triggers requirement to complete all parts of the Recyclable Materials Report.
II. OFFSITE GENERATOR OF RECYCLABLE MATERIAL INFORMATION (repeats for each generator, EXCEPT for the signature information)					
504	Offsite Generator Name		35	AN	Facility name of offsite generator of recyclable material.
505	Offsite Generator EPA ID Number	12 digit identifier beginning with CA	12	AN	EPA Identification number of generator of recyclable material.
506	Street Address (Offsite Generator)	Postal standard: 2 lines, 35 characters	70	AN	Street address for offsite generator of recyclable material. No post office box numbers are allowed. This information must provide a means to geographically locate the facility.
507	Phone (Offsite Generator)	Area code + 7 digit phone number + extension	15	AN	Phone number for offsite generator of recyclable material.
508	City (Offsite Generator)	Postal standard	20	AN	City or unincorporated area for offsite generator of recyclable material.
509	State (Offsite Generator)	Valid 2-digit state code	2	AN	State for offsite generator of recyclable material.
510	Zip Code (Offsite Generator)	Postal standard	9	AN	Zip code for offsite generator of recyclable material.

[The next page is 829.]

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
511	Mailing Address (Offsite Generator)	Postal standard: 2 lines, 35 characters	70	AN	Mailing address for offsite generator of recyclable material, if different from street address.
512	City for Mailing Address (Offsite Generator)	Postal standard	20	AN	City or unincorporated area for mailing address of offsite generator of recyclable material, if different from street address.
513	State for Mailing Address (Offsite Generator)	Valid 2-digit state code	2	AN	State for mailing address of offsite generator of recyclable material, if different from street address.
514	Zip Code for Mailing Address (Offsite Generator)	Postal standard	9	AN	Zip code for mailing address of offsite generator of recyclable material, if different from street address.
III. CERTIFICATION SECTION					
515	Date (Recyclable Materials)	YYYYMMDD	8	D	Date the document was signed.
516	Name of Document Preparer (Recyclable Materials)		35	AN	Full name of person who prepared the Recyclable Materials Report.
517	Certifier Name (Recyclable Materials)		35	AN	Full name of person signing the Recyclable Materials Report.
518	Certifier Title (Recyclable Materials)		35	AN	Title of person signing the Recyclable Materials Report.
IV. RECYCLABLE MATERIAL INFORMATION A. Description					
519	Total Number of Recyclable Materials		3	AN	Total number of recyclable materials reported in this report. Verify that the number of recyclable material reports (part IV) is the same as the total number listed here.
520	Recyclable Material Number		3	AN	Unique identification number for each recyclable material reported. They can be numbered sequentially, or by any other system as long as the numbers are not repeated or duplicated.
521	Common Name (Recyclable Materials)		60	AN	Common name of material recycled. This is the same as the Common Name on the Hazardous Materials Inventory - Chemical Description page.
522	Quantity During Two Year Reporting Period (Recyclable Materials)		10	N	Total quantity of this recyclable material recycled during the two year reporting period. Round to nearest whole number.
523	Units (Recyclable Materials)	a = gallons b = pounds c = tons d = kilograms	1	AN	Unit of measure for quantity reported.
524	Recyclable Material Description	Narrative	150	AN	Description of recyclable material.
525	Recycling Process and Beneficial Use	Narrative	150	AN	Description of the recycling process and beneficial use of recyclable material, i.e., how it was used to make or substitute for a product.
526	Authorizing Provision of HSC Section 25143.2	Statutory citation	20	AN	Subdivision(s), and subparagraph(s) (if applicable) of HSC 25143.2 that served as the basis for the claim to exemption or exclusion. For example: HSC 25143.2(d)(2)(C).

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
527	Basis for Claim to Exclusion or Exemption	Narrative	50	AN	Explanation of the basis for the claim to an exclusion or exemption.
IV. RECYCLABLE MATERIAL INFORMATION B. Product And Constituent Information: Offsite Only					
528	Hazardous Constituent 1		80	AN	Description of hazardous constituent (use common name, if appropriate).
529	Concentration Recyclable Material 1	6 digits with floating decimal	7	N	Concentration of this hazardous constituent in this recyclable material.
530	Units Recyclable Material 1	a = percentage b = parts per million	1	AN	Unit of measure which is most appropriate for this hazardous constituent.
531	Concentration Final Product 1	6 digits with floating decimal	7	N	Concentration of this hazardous constituent in the final product.
532	Units Final Product 1	a = percentage b = parts per million	1	AN	Unit of measure which is most appropriate for this hazardous constituent.
533	Final Products/ Uses for Constituent 1		60	AN	Final use of the recyclable material. Description of the product(s) that resulted from the recycling process and how that product is beneficially used.
534	Hazardous Constituent 2		80	AN	Description of hazardous constituent (use common name, if appropriate).
535	Concentration Recyclable Material 2	6 digits with floating decimal	7	N	Concentration of this hazardous constituent in this recyclable material.
536	Units Recyclable Material 2	a = percentage b = parts per million	1	AN	Unit of measure which is most appropriate for this hazardous constituent.
537	Concentration Final Product 2	6 digits with floating decimal	7	N	Concentration of this hazardous constituent in the final product.
538	Units Final Product 2	a = percentage b = parts per million	1	AN	Unit of measure which is most appropriate for this hazardous constituent.
539	Final Products/ Uses for Constituent 2		60	AN	Final use of the recyclable material. Description of the product(s) that resulted from the recycling process and how that product is beneficially used.
540	Hazardous Constituent 3		80	AN	Description of hazardous constituent (use common name, if appropriate).
541	Concentration Recyclable Material 3	6 digits with floating decimal	7	N	Concentration of this hazardous constituent in this recyclable material.
542	Units Recyclable Material 3	a = percentage b = parts per million	1	AN	Unit of measure which is most appropriate for this hazardous constituent.
543	Concentration Final Product 3	6 digits with floating decimal	7	N	Concentration of this hazardous constituent in the final product.
544	Units Final Product 3	a = percentage b = parts per million	1	AN	Unit of measure which is most appropriate for this hazardous constituent.
545	Final Products/ Uses for Constituent 3		60	AN	Final use of the recyclable material. Description of the product(s) that resulted from the recycling process and how that product is beneficially used.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
546	Hazardous Constituent 4		80	AN	Description of hazardous constituent (use common name, if appropriate).
547	Concentration Recyclable Material 4	6 digits with floating decimal	7	N	Concentration of this hazardous constituent in this recyclable material.
548	Units Recyclable Material 4	a = percentage b = parts per million	1	AN	Unit of measure which is most appropriate for this hazardous constituent.
549	Concentration Final Product 4	6 digits with floating decimal	7	N	Concentration of this hazardous constituent in the final product.
550	Units Final Product 4	a = percentage b = parts per million	1	AN	Unit of measure which is most appropriate for this hazardous constituent.
551	Final Products/ Uses for Constituent 4		60	AN	Final use of the recyclable material. Description of the product(s) that resulted from the recycling process and how that product is beneficially used.
If more than four hazardous constituents are present in one recyclable material, submit this information on additional sheets. The information is not submitted electronically unless the CUPA has established local data standards.					
V. DOCUMENTATION OF KNOWN MARKET					
552	Documentation (Offsite Recycling)	Y or N	1	AN	If the recycler is an offsite facility, indicates if documentation is provided. Documentation is required pursuant to HSC 25143.10(a)(3)(A) to show that there was a known market for disposition of the recyclable material and any products manufactured from it. A copy of this report must be submitted to the generator of the material.

HISTORY

1. New chapter 4 and table filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).

1. Onsite Hazardous Waste Treatment Notification — Facility

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
1	Facility ID Number	2 AN county 3 AN jurisdiction 6 AN facility number	11	AN	Number to allow cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.
3	Business Name	Postal standard: 2 lines, 35 characters	70	AN	Full legal name of business.
600	Notification Status (Onsite Hazardous Waste Facility)	a = amended b = initial c = renewal	1	AN	Notification status under the tiered permitting system.
601a	Permit Status = facility permit	Y or N	1	AN	Permit status for State issued hazardous waste permits or grants of authorization.
601b	Permit Status = interim status	Y or N	1	AN	Permit status for State issued hazardous waste permits or grants of authorization.
601c	Permit Status = standardized permit	Y or N	1	AN	Permit status for State issued hazardous waste permits or grants of authorization.
601d	Permit Status = variance	Y or N	1	AN	Permit status for State issued hazardous waste permits or grants of authorization.
601e	Permit Status = consent agreement	Y or N	1	AN	Permit status for State issued hazardous waste permits or grants of authorization.
602a	Number of Units = CESQT	Maximum 3 digit number	3	AN	Number of units at facility. Attach a unit specific notification page for EACH unit covered by this notification, except CE-CL units.
602b	Number of Units = CESW	Maximum 3 digit number	3	AN	Number of units at facility. Attach a unit specific notification page for EACH unit covered by this notification, except CE-CL units.
602c	Number of Units = CA	Maximum 3 digit number	3	AN	Number of units at facility. Attach a unit specific notification page for EACH unit covered by this notification, except CE-CL units.
602d	Number of Units = PBR	Maximum 3 digit number	3	AN	Number of units at facility. Attach a unit specific notification page for EACH unit covered by this notification, except CE-CL units.
602e	Number of Units = CEL	Maximum 3 digit number	3	AN	Number of units at facility. Attach a unit specific notification page for EACH unit covered by this notification, except CE-CL units.
602f	Number of Units = CE-CL	Maximum 3 digit number	3	AN	Number of CE-CL (commercial laundries) units at facility. No unit specific notification is required for CE-CL.
602g	Number of Units = total	Maximum 3 digit number	3	AN	Total number of units at facility. Verify that this number equals the number of unit notification pages plus CE-CL units.
603	Date Certified (Onsite Hazardous Waste Facility)	YYYYMMDD	8	D	Date the page was signed.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
604	Owner / Operator Name (Onsite Hazardous Waste Facility)		35	AN	Full name of business owner/operator, or officially designated representative of the owner/operator. The signer certifies to a belief that all the information submitted is accurate and complete. The person signing this page must be an owner or officer of the company who is authorized to make decisions for the facility and who has operational control. In most companies, this is not the environmental compliance or technical staff. The signer of the certifications attests to their accuracy under penalty of law for submitting false information. The certifications cover waste minimization, the eligibility of the unit(s) for the indicated tier, the fact that the unit meets all of the operating requirements for that tier, and that the information is accurate.
605	Owner / Operator Title (Onsite Hazardous Waste Facility)		35	AN	Title of person signing the page.

HISTORY

1. New table filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).

3. Onsite Hazardous Waste Treatment Notification — Unit

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
1	Facility ID Number	2 AN county 3 AN jurisdiction 6 AN facility number	11	AN	Number to allow cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.
3	Business Name	Postal standard: 2 lines, 35 characters	70	AN	Full legal name of business.
606	Unit ID Number (Onsite Hazardous Waste Facility)		18	AN	Unique identification number for unit. The units can be numbered sequentially, or by any other system as long as the numbers are not repeated or duplicated.
607	Unit Type / Tier (Onsite Hazardous Waste Facility)	a = CESQT b = CESW c = CA d = PBR e = CEL	1	AN	Unit type under the tiered permitting program.
608	Number of Tanks (Onsite Hazardous Waste Facility)		2	AN	Number of tanks containing hazardous waste. "Tank" means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.
609	Number Of Containers/ Treatment Areas		2	AN	Number of containers and container treatment areas for hazardous waste. "Container" means any device that is open or closed, and portable in which a material can be stored, handled, treated, transported, recycled, or disposed of. "Container treatment area" is the location set aside and used to treat containers, such as drums.
610	Unit Name		30	AN	Name of treatment unit. A unit is defined as a tank, a container, or a combination of tanks or tank systems and/or containers located together that are used in sequence to treat or accumulate one or more compatible hazardous wastestreams. The devices are either plumbed together or otherwise linked so as to form one system.
611	Monthly Treatment Volume		8	AN	Estimated monthly total volume of hazardous waste treated in each unit. If the volume fluctuates significantly by month, enter the maximum or highest volume treated in any month.
612	Unit Of Measure	a = pounds b = gallons	1	AN	Unit of measure for monthly treatment volume.
613	Specific Waste Type Treated	Narrative	150	AN	Description of the specific waste type(s) treated. For example, if waste qualifies as an aqueous waste with metal or organics, indicate the specific metals or organics.
614	Treatment Process Description	Narrative	150	AN	Description of treatment process(es) used.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
615a	Basis for Not Needing Federal Permit = treated waste is not a hazardous waste under federal law (California - only waste)	Y or N	1	AN	Basis for determining that a hazardous waste permit is not required under RCRA and the federal regulations adopted under RCRA (40 CFR). Only onsite treatment operations that are not required to obtain a federal permit are eligible for the onsite permitting tiers. Indicate at least one reason to prove eligibility for the onsite treatment tiers. Contact the CUPA, DTSC Regional Office, the U.S. EPA's Region IX RCRA Information Line at (415)744-2074, or the U.S. EPA RCRA Hotline at (800)424-9346.
615b	Basis for Not Needing Federal Permit = treated in waste water treatment units (tanks) and discharged to a publicly owned treatment works (POTW) / sewering agency or under an NPDES permit	Y or N	1	AN	Basis for determining that a hazardous waste permit is not required under RCRA and the federal regulations adopted under RCRA (40 CFR). Wastewater treatment unit means a device which (1) is part of a wastewater treatment facility regulated under section 402 or 307(b) of the Clean Water Act, and (2) receives and treats or stores an influent wastewater that is a hazardous waste or that generates and accumulates a wastewater treatment sludge that is a hazardous waste or that treats or stores a wastewater treatment sludge which is a hazardous waste, and (3) meets the definition of tank or tank system. This term is defined in 40 CFR 260.10.
615c	Basis for Not Needing Federal Permit = treatment in elementary neutralization units	Y or N	1	AN	Basis for determining that a hazardous waste permit is not required under RCRA and the federal regulations adopted under RCRA (40 CFR). Elementary neutralization unit means a device which: (1) is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic or they are listed only for this reason: and (2) meets the definition of tank, tank system, container, transport vehicle, or vessel. This term is defined in 40 CFR 260.10.
615d	Basis for Not Needing Federal Permit = treatment in a totally enclosed treatment facility	Y or N	1	AN	Basis for determining that a hazardous waste permit is not required under RCRA and the federal regulations adopted under RCRA (40 CFR). Totally enclosed treatment facility means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. This term is defined in 40 CFR 260.10.
615e	Basis for Not Needing Federal Permit = federal conditionally exempt small quantity generator [generated 100 kg (approximately 27 gallons) or less] of hazardous waste in a calendar month	Y or N	1	AN	Basis for determining that a hazardous waste permit is not required under RCRA and the federal regulations adopted under RCRA (40 CFR). See description in item 615a above.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
615f	Basis for Not Needing Federal Permit = treatment in an accumulation tank or container within 90 days for over 1000 kg/month generators and 180 or 270 days for generators of 100 to 1000 kg/month	Y or N	1	AN	Basis for determining that a hazardous waste permit is not required under RCRA and the federal regulations adopted under RCRA (40 CFR). See description in item 615a above.
615g	Basis for Not Needing Federal Permit = recyclable materials are reclaimed to recover silver or other precious metals	Y or N	1	AN	Basis for determining that a hazardous waste permit is not required under RCRA and the federal regulations adopted under RCRA (40 CFR). See description in item 615a above.
615h	Basis for Not Needing Federal Permit = empty container rinsing and/or treatment	Y or N	1	AN	Basis for determining that a hazardous waste permit is not required under RCRA and the federal regulations adopted under RCRA (40 CFR). See description in item 615a above.
615i	Basis for Not Needing Federal Permit = other	Narrative	30	AN	Description of basis for determining that a hazardous waste permit is not required under RCRA and the federal regulations adopted under RCRA (40 CFR). See item 615a above.
616a	Residuals Management Description = discharge non-hazardous aqueous waste to POTW or sewer	Y or N	1	AN	Residual management options. If any hazardous residuals are disposed or hauled offsite, indicates where the waste is sent.
616b	Residuals Management Description = discharge non-hazardous aqueous waste under a NPDES permit	Y or N	1	AN	See description in item 616a above.
616c	Residuals Management Description = dispose of non-hazardous solid waste residues at an offsite location	Y or N	1	AN	See description in item 616a above.
616d	Residuals Management Description = offsite recycling	Y or N	1	AN	See description in item 616a above.
616e	Residuals Management Description = thermal treatment	Y or N	1	AN	See description in item 616a above.
616f	Residuals Management Description = disposal to land	Y or N	1	AN	See description in item 616a above.
616g	Residuals Management Description = further treatment	Y or N	1	AN	See description in item 616a above.
616h	Residuals Management Description = other method of disposal	Narrative	30	AN	See description in item 616a above.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
617	Secondary Containment Installation Date	YYYYMMDD	8	D	Date secondary containment installed.

HISTORY

1. New table filed 11-16-2004; operative 12-16-2004 (Register 2004, No. 47).

C. Onsite Tiered Permitting — Waste and Treatment Process Combinations

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
606	Unit ID Number		18	AN	Unique identification number for unit. The units can be numbered sequentially or by any other system as long as the numbers are not repeated or duplicated.
1	Facility ID Number	2 AN county 3 AN jurisdiction 6 AN facility number	11	AN	Number to permit cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.

INFORMATION DESCRIPTION — Conditionally Exempt Small Quantity Treatment (CESQT) Waste and Treatment Process Combinations. These are all of the eligible waste streams and treatment processes that are available within the tier. NOTE: PBR codes are the same as CESQT.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*
627-1a	Aqueous Waste - Hexavalent Chromium Reduction	Y or N	1	AN
627-2a	Aqueous Waste w/Metals - pH Adjustment / Neutralization	Y or N	1	AN
627-2b	Aqueous Waste w/Metals - Precipitation or Crystallization	Y or N	1	AN
627-2c	Aqueous Waste w/Metals - Phase Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
627-2d	Aqueous Waste w/Metals - Ion Exchange	Y or N	1	AN
627-2e	Aqueous Waste w/Metals - Reverse Osmosis	Y or N	1	AN
627-2f	Aqueous Waste w/Metals - Metallic Replacement	Y or N	1	AN
627-2g	Aqueous Waste w/Metals - Plating onto an Electrode	Y or N	1	AN
627-2h	Aqueous Waste w/Metals - Electrodialysis	Y or N	1	AN
627-2i	Aqueous Waste w/Metals - Electrowinning or Electrolytic Recovery	Y or N	1	AN
627-2j	Aqueous Waste w/Metals - Chemical Stabilization Using Silicates or Cementitious Reactions	Y or N	1	AN
627-2k	Aqueous Waste w/Metals - Evaporation	Y or N	1	AN
627-2l	Aqueous Waste w/Metals - Adsorption	Y or N	1	AN
627-3a	Aqueous Waste w/Organics (<10% Organic and <1% Volatiles) - Phase Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
627-3b	Aqueous Waste w/Organics (<10% Organic and <1% Volatiles) - Adsorption	Y or N	1	AN
627-3c	Aqueous Waste w/Organics (<10% Organic and <1% Volatiles) - Distillation	Y or N	1	AN
627-3d	Aqueous Waste w/Organics (<10% Organic and <1% Volatiles) - Biological Process Using Microorganisms	Y or N	1	AN
627-3e	Aqueous Waste w/Organics (<10% Organic and <1% Volatiles) - Photodegradation in Enclosed System	Y or N	1	AN
627-3f	Aqueous Waste w/Organics (<10% Organic and <1% Volatiles) - Air Stripping or Steam Stripping	Y or N	1	AN

INFORMATION DESCRIPTION — Conditionally Exempt Small Quantity Treatment (CESQT) Waste and Treatment Process Combinations. These are all of the eligible waste streams and treatment processes that are available within the tier. NOTE: PBR codes are the same as CESQT.

ID	*Element*	*Edit Criteria/Code*	*Length*	*Type*
627-4a	Sludges, Dusts, Solids w/Metal(s) - Chemical Stabilization Using Silicates or Cementitious Reactions	Y or N	1	AN
627-4b	Sludges, Dusts, Solids w/Metal(s) - Grind, Shred, Crush, or Compact	Y or N	1	AN
627-4c	Sludges, Dusts, Solids w/Metal(s) - Drying to Remove Water	Y or N	1	AN
627-4d	Sludges, Dusts, Solids w/Metal(s) - Separation by Size, Magnetism, or Density	Y or N	1	AN
627-5a	Sludges w/Alum, Gypsum, Lime, Sulfur, or Phosphate - Chemical Stabilization Using Silicates or Cementitious Reactions	Y or N	1	AN
627-5b	Sludges w/Alum, Gypsum, Lime, Sulfur, or Phosphate - Drying to Remove Water	Y or N	1	AN
627-5c	Sludges w/Alum, Gypsum, Lime, Sulfur, or Phosphate - Phase Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
627-6a	Special Waste (Sec. 66261.120) - Chemical Stabilization Using Silicates or Cementitious Reactions	Y or N	1	AN
627-6b	Special Waste (Sec. 66261.120) - Drying to Remove Water	Y or N	1	AN
627-6c	Special Waste (Sec. 66261.120) - Phase Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
627-6d	Special Waste (Sec. 66261.120) - Screening Based on Size	Y or N	1	AN
627-6e	Special Waste (Sec. 66261.120) - Separation by Size, Magnetism, or Density	Y or N	1	AN
627-7a	Special Waste (Sec. 66261.124) - Chemical Stabilization Using Silicates or Cementitious Reactions	Y or N	1	AN
627-7b	Special Waste (Sec. 66261.124) - Drying to Remove Water	Y or N	1	AN
627-7c	Special Waste (Sec. 66261.124) - Phase Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
627-7d	Special Waste (Sec. 66261.124) - Magnetic Separation	Y or N	1	AN
627-8a	Inorganic Acid/Alkaline Waste - pH Adjustment / Neutralization	Y or N	1	AN
627-9a	Soils w/Metal(s) - Chemical Stabilization Using Silicates or Cementitious Reactions	Y or N	1	AN
627-9b	Soils w/Metal(s) - Separation by Size	Y or N	1	AN
627-9c	Soils w/Metal(s) - Magnetic Separation	Y or N	1	AN
627-10a	Used Oil, Mixed Oil, Oily Water, Oil/Water Sludges - Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
627-10b	Used Oil, Mixed Oil, Oily Water, O/W Sludges - Distillation	Y or N	1	AN
627-10c	Used Oil, Mixed Oil, Oily Water, O/W Sludges - Neutralization	Y or N	1	AN

INFORMATION DESCRIPTION — Conditionally Exempt Small Quantity Treatment (CESQT) Waste and Treatment Process Combinations. These are all of the eligible waste streams and treatment processes that are available within the tier. NOTE: PBR codes are the same as CESQT.

ID	*Element*	*Edit Criteria/Code*	*Length*	*Type*
627-10d	Used Oil, Mixed Oil, Oily Water, O/W Sludges - Separation by Size, Magnetism, or Density	Y or N	1	AN
627-10e	Used Oil, Mixed Oil, Oily Water, O/W Sludges - Reverse Osmosis	Y or N	1	AN
627-10f	Used Oil, Mixed Oil, Oily Water, O/W Sludges - Biological Process Using Microorganisms	Y or N	1	AN
627-11a	Containers (< 110 Gallons) or Liners - Rinsing with Liquid	Y or N	1	AN
627-11b	Containers (< 110 Gallons) or Liners - Crush, Shred, Grind, or Puncture	Y or N	1	AN
627-12a	Multi-component Resins - Mixing per Manufacturer's Instructions	Y or N	1	AN
627-13	Wastestream & Treatment Technology Combination Certified by DTSC per HSC 25200.1.5	Valid Certified Technology Number	10	AN

INFORMATION DESCRIPTION — Conditionally Exempt Specified Wastestreams (CESW) Waste and Treatment Process Combinations. These are all of the eligible waste streams and Treatment processes that are available within the tier.

ID	*Element*	*Edit Criteria/Code*	*Length*	*Type*
628-1	Resins - Mixing or Curing per Manufacturer's Instructions	Y or N	1	AN
628-2	Containers (<110 Gallons) - Rinse, Crush, Shred, Grind or Puncture	Y or N	1	AN
628-3	Special Waste (Sec. 66261.124) - Drying by Evaporation or Pressing to Remove Water	Y or N	1	AN
628-4	Special Waste (Sec. 66261.124) - Magnetic Separation or Screening	Y or N	1	AN
628-8a	Gravity Settling - Settling Solids w/Non-hazardous Liquid	Y or N	1	AN
628-8b	Gravity Settling - Separation of Oil/Water Mix or Sludges (<25 Barrels/mo)	Y or N	1	AN
628-9	Neutralizing Acidic/Alkaline Material - Certified or Educational Laboratory or <1 Gallon/batch of Laboratory Waste	Y or N	1	AN
628-10	Hazardous Waste Treatment Carried Out in Q/C or Q/A Labs (not Offsite Facility)	Y or N	1	AN
628-11	Wastestream & Treatment Technology Combination Certified by DTSC per HSC 25200.1.5	Valid Certified Technology Number	10	AN
628-12	Formaldehyde / Glutaraldehyde by Healthcare Facilities Using Equipment Certified by DTSC per HSC 25200.1.5	Valid Certified Technology Number	10	AN

INFORMATION DESCRIPTION — Conditionally Authorized (CA) Waste and Treatment Process Combinations. These are all of the eligible waste streams and treatment processes that are available within the tier.

ID	*Element*	*Edit Criteria/Code*	*Length*	*Type*
629-1a	Aqueous Waste w/Inorganics <1,400 ppm - Phase Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
629-1b	Aqueous Waste w/Inorganics <1,400 ppm - Ion Exchange / Metallic Replacement	Y or N	1	AN
629-1c	Aqueous Waste w/Inorganics <1,400 ppm - Reverse Osmosis	Y or N	1	AN
629-1d	Aqueous Waste w/Inorganics <1,400 ppm - Adsorption	Y or N	1	AN
629-1e	Aqueous Waste w/Inorganics <1,400 ppm - pH Adjustment	Y or N	1	AN
629-1f	Aqueous Waste w/Inorganics <1,400 ppm - Electrowinning if no Hydrochloric Acid	Y or N	1	AN
629-1g	Aqueous Waste w/Inorganics <750 ppm - Hexavalent Chromium Reduction	Y or N	1	AN
629-2a	Aqueous Waste w/Organics <750 ppm - Phase Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
629-2b	Aqueous Waste w/Organics <750 ppm - Adsorption	Y or N	1	AN
629-3a	Sludges, Dusts, Solids w/Metal(s) <750 ppm - Filter, Gravity, Grind, Crush, or Compact	Y or N	1	AN
629-3b	Sludges, Dusts, Solids w/Metal(s) <750 ppm - Drying to Remove Water	Y or N	1	AN
629-3c	Sludges, Dusts, Solids w/Metal(s) <750 ppm - Separation by Size, Magnetism, or Density	Y or N	1	AN
629-4a	Sludges w/ Alum, Gypsum, Lime, Phosphate <5,000 Gal / 45,000 Lb/mo - Drying to Remove Water	Y or N	1	AN
629-4b	Sludges w/ Alum, Gypsum, Lime, Phosphate < 5,000 Gal / 45,000 Lb/mo - Phase Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
629-5a	Special Waste (Sec. 66261.120) w/<750 ppm - Drying to Remove Water	Y or N	1	AN
629-5b	Special Waste (Sec. 66261.120) w/<750 ppm - Phase Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
629-5c	Special Waste (Sec. 66261.120) w/<750 ppm - Screening Based on Size	Y or N	1	AN
629-5d	Special Waste (Sec. 66261.120) w/<750 ppm - Separation by Size, Magnetism, or Density	Y or N	1	AN

INFORMATION DESCRIPTION — Conditionally Authorized (CA) Waste and Treatment Process Combinations. These are all of the eligible waste streams and treatment processes that are available within the tier.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*
629-6a	Special Waste (Sec. 66261.124) w/<750 ppm - Drying to Remove Water	Y or N	1	AN
629-6b	Special Waste (Sec. 66261.124) w/<750 ppm - Phase Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
629-6c	Special Waste (Sec. 66261.124) w/<750 ppm - Magnetic Separation	Y or N	1	AN
629-7a	Soils w/Metals <45,000 Lb / < 5000 Gal/mo - Separation by Size	Y or N	1	AN
629-7b	Soils w/Metals <45,000 Lb / < 5000 Gal/mo - Magnetic Separation	Y or N	1	AN
629-8a	Oily Water, Oil/Water Sludges - Phase Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
629-8b	Oily Water, Oil/Water Sludges - Separation by Size, Magnetism, or Density	Y or N	1	AN
629-8c	Oily Water, Oil/Water Sludges - Reverse Osmosis	Y or N	1	AN
629-9a	Alkaline/Acidic Waste <10% by Weight - Neutralization	Y or N	1	AN
629-9b	Alkaline/Acidic Waste >10% by Weight (<500 Gallons/batch) - Neutralization	Y or N	1	AN
629-12	Wastestream & Treatment Technology Combination Certified by DTSC per HSC 25200.1.5	Valid Certified Technology Number	10	AN

INFORMATION DESCRIPTION — Permit by Rule (PBR) Waste and Treatment Process Combinations. These are all of the eligible waste streams and treatment processes that are available within the tier. NOTE: PBR codes are the same as CESQT.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*
630-1a	Aqueous Waste - Hexavalent Chromium Reduction	Y or N	1	AN
630-2a	Aqueous Waste w/Metals - pH Adjustment / Neutralization	Y or N	1	AN
630-2b	Aqueous Waste w/Metals - Precipitation or Crystallization	Y or N	1	AN
630-2c	Aqueous Waste w/Metals - Phase Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
630-2d	Aqueous Waste w/Metals - Ion Exchange	Y or N	1	AN
630-2e	Aqueous Waste w/Metals - Reverse Osmosis	Y or N	1	AN
630-2f	Aqueous Waste w/Metals - Metallic Replacement	Y or N	1	AN
630-2g	Aqueous Waste w/Metals - Plating onto an Electrode	Y or N	1	AN
630-2h	Aqueous Waste w/Metals - Electrodialysis	Y or N	1	AN
630-2i	Aqueous Waste w/Metals - Electrowinning or Electrolytic Recovery	Y or N	1	AN
630-2j	Aqueous Waste w/Metals - Chemical Stabilization Using Silicates or Cementitious Reactions	Y or N	1	AN
630-2k	Aqueous Waste w/Metals - Evaporation	Y or N	1	AN
630-2l	Aqueous Waste w/Metals - Adsorption	Y or N	1	AN
630-3a	Aqueous Waste w/Organics (<10% Organic and <1% Volatiles) - Phase Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
630-3b	Aqueous Waste w/Organics (<10% Organic and <1% Volatiles) - Adsorption	Y or N	1	AN
630-3c	Aqueous Waste w/Organics (<10% Organic and <1% Volatiles) - Distillation	Y or N	1	AN
630-3d	Aqueous Waste w/Organics (<10% Organic and <1% Volatiles) - Biological Process Using Microorganisms	Y or N	1	AN
630-3e	Aqueous Waste w/Organics (<10% Organic and <1% Volatiles) - Photodegradation in Enclosed System	Y or N	1	AN
630-3f	Aqueous Waste w/Organics (<1% Volatiles) - Air Stripping or Steam Stripping	Y or N	1	AN

INFORMATION DESCRIPTION — Permit by Rule (PBR) Waste and Treatment Process Combinations. These are all of the eligible waste streams and treatment processes that are available within the tier. NOTE: PBR codes are the same as CESQT.

ID	*Element*	*Edit Criteria/Code*	*Length*	*Type*
630-4a	Sludges, Dusts, Solids w/Metal(s) - Chemical Stabilization Using Silicates or Cementitious Reactions	Y or N	1	AN
630-4b	Sludges, Dusts, Solids w/Metal(s) - Grind, Shred, Crush, or Compact	Y or N	1	AN
630-4c	Sludges, Dusts, Solids w/Metal(s) - Drying to Remove Water	Y or N	1	AN
630-4d	Sludges, Dusts, Solids w/Metal(s) - Separation by Size, Magnetism, or Density	Y or N	1	AN
630-5a	Sludges w/Alum, Gypsum, Lime, Sulfur, or Phosphate - Chemical Stabilization Using Silicates or Cementitious Reactions	Y or N	1	AN
630-5b	Sludges w/Alum, Gypsum, Lime, Sulfur, or Phosphate - Drying to Remove Water	Y or N	1	AN
630-5c	Sludges w/Alum, Gypsum, Lime, Sulfur, or Phosphate - Phase Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
630-6a	Special Waste (Sec. 66261.120) - Chemical Stabilization Using Silicates or Cementitious Reactions	Y or N	1	AN
630-6b	Special Waste (Sec. 66261.120) - Drying to Remove Water	Y or N	1	AN
630-6c	Special Waste (Sec. 66261.120) - Phase Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
630-6d	Special Waste (Sec. 66261.120) - Screening Based on Size	Y or N	1	AN
630-6e	Special Waste (Sec. 66261.120) - Separation by Size, Magnetism, or Density	Y or N	1	AN
630-7a	Special Waste (Sec. 66261.124) - Chemical Stabilization Using Silicates or Cementitious Reactions	Y or N	1	AN
630-7b	Special Waste (Sec. 66261.124) - Drying to Remove Water	Y or N	1	AN
630-7c	Special Waste (Sec. 66261.124) - Phase Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
630-7d	Special Waste (Sec. 66261.124) - Magnetic Separation	Y or N	1	AN
630-8a	Inorganic Acid/Alkaline Waste - pH Adjustment / Neutralization	Y or N	1	AN
630-9a	Soils w/Metal(s) - Chemical Stabilization Using Silicates or Cementitious Reactions	Y or N	1	AN
630-9b	Soils w/Metal(s) - Separation by Size	Y or N	1	AN
630-9c	Soils w/Metal(s) - Magnetic Separation	Y or N	1	AN
630-10a	Used Oil, Mixed Oil, Oily Water, Oil/W Sludges - Separation by Filter, Centrifuge, or Gravity Settling	Y or N	1	AN
630-10b	Used Oil, Mixed Oil, Oily Water, O/W Sludges - Distillation	Y or N	1	AN
630-10c	Used Oil, Mixed Oil, Oily Water, O/W Sludges - Neutralization	Y or N	1	AN

INFORMATION DESCRIPTION — Permit by Rule (PBR) Waste and Treatment Process Combinations. These are all of the eligible waste streams and treatment processes that are available within the tier. NOTE: PBR codes are the same as CESQT, except that items 630–14a through 630–20 cannot be treated under CESQT.

ID	*Element*	*Edit Criteria/Code*	*Length*	*Type*
630–10d	Used Oil, Mixed Oil, Oily Water, O/W Sludges — Separation by Size, Magnetism, or Density	Y or N	1	AN
630–10e	Used Oil, Mixed Oil, Oily Water, O/W Sludges — Reverse Osmosis	Y or N	1	AN
630–10f	Used Oil, Mixed Oil, Oily Water, O/W Sludges — Biological Process Using Microorganisms	Y or N	1	AN
630–11a	Containers (< 110 Gallons) or Liners — Rinsing with Liquid	Y or N	1	AN
630–11b	Containers (< 110 Gallons) or Liners — Crush, Shred Grind, or Puncture	Y or N	1	AN
630–12a	Multi–component Resins — Mixing per Manufacturer's Instructions	Y or N	1	AN
630–13	Wastestream & Treatment Technology Combination Certified by DTSC per HSC 25200.1.5	Valid Certified Technology Number	10	AN
630–14a	Cyanide Rinsewater, Cyanide Destruction — Oxidation by Addition of Hypochlorite	Y or N	1	AN
630–14b	Cyanide Rinsewater, Cyanide Destruction — Oxidation by Addition of Peroxide or Ozone, with or without Ultraviolet Light	Y or N	1	AN
630–14c	Cyanide Rinsewater, Cyanide Destruction — Alkaline Chlorination	Y or N	1	AN
630–14d	Cyanide Rinsewater, Cyanide Destruction — Electrochemical Oxidation	Y or N	1	AN
630–14e	Cyanide Rinsewater, Cyanide Removal — Ion Exchange	Y or N	1	AN
630–14f	Cyanide Rinsewater, Cyanide Removal — Reverse Osmosis	Y or N	1	AN
630–15a	Reverse Osmosis Effluent with Cyanide or Demineralizer Regenerate with Cyanides, Cyanide Destruction — Oxidation by Addition of Hypochlorite	Y or N	1	AN
630–15b	Reverse Osmosis Effluent with Cyanide or Demineralizer Regenerate with Cyanides, Cyanide Destruction — Oxidation by Addition of Peroxide or Ozone, with or without Ultraviolet Light	Y or N	1	AN
630–15c	Reverse Osmosis Effluent with Cyanide or Demineralizer Regenerate with Cyanides, Cyanide Destruction — Alkaline Chlorination	Y or N	1	AN
630–15d	Reverse Osmosis Effluent with Cyanide or Demineralizer Regenerate with Cyanides, Cyanide Destruction — Electrochemical Oxidation	Y or N	1	AN
630–15e	Reverse Osmosis Effluent with Cyanide or Demineralizer Regenerate with Cyanides, Cyanide Removal — Ion Exchange	Y or N	1	AN
630–15f	Reverse Osmosis Effluent with Cyanide or Demineralizer Regenerate with Cyanides, Cyanide Removal — Reverse Osmosis	Y or N	1	AN
630–16a	Transfer Equipment Rinsate with Cyanides, Cyanide Destruction — Oxidation by Addition of Hypochlorite	Y or N	1	AN
630–16b	Transfer Equipment Rinsate with Cyanides, Cyanide Destruction — Oxidation by Addition of Peroxide or Ozone, with or without Ultraviolet Light	Y or N	1	AN
630–16c	Transfer Equipment Rinsate with Cyanides, Cyanide Destruction — Alkaline Chlorination	Y or N	1	AN

ID	*Element*	*Edit Criteria/Code*	*Length*	*Type*
630–16d	Transfer Equipment Rinsate with Cyanides, Cyanide Destruction — Electrochemical Oxidation	Y or N	1	AN
630–16e	Transfer Equipment Rinsate with Cyanides, Cyanide Removal — Ion Exchange	Y or N	1	AN
630–16f	Transfer Equipment Rinsate with Cyanides, Cyanide Removal — Reverse Osmosis	Y or N	1	AN
630–17a	Anode Bag and Empty Container Rinsate with Cyanides, Cyanide Destruction — Oxidation by Addition of Hypochlorite	Y or N	1	AN
630–17b	Anode Bag and Empty Container Rinsate with Cyanides, Cyanide Destruction — Oxidation by Addition of Peroxide or Ozone, with or without Ultraviolet Light	Y or N	1	AN
630–17c	Anode Bag and Empty Container Rinsate with Cyanides, Cyanide Destruction — Alkaline Chlorination	Y or N	1	AN
630–17d	Anode Bag and Empty Container Rinsate with Cyanides, Cyanide Destruction — Electrochemical Oxidation	Y or N	1	AN
630–17e	Anode Bag and Empty Container Rinsate with Cyanides, Cyanide Removal — Ion Exchange	Y or N	1	AN
630–17f	Anode Bag and Empty Container Rinsate with Cyanides, Cyanide Removal — Reverse Osmosis	Y or N	1	AN
630–18a	Onsite Laboratory Aqueous Wastes with Cyanides, Cyanide Destruction — Oxidation by Addition of Hypochlorite	Y or N	1	AN
630–18b	Onsite Laboratory Aqueous Wastes with Cyanides, Cyanide Destruction — Oxidation by Addition of Peroxide or Ozone, with or without Ultraviolet Light	Y or N	1	AN
630–18c	Onsite Laboratory Aqueous Wastes with Cyanides, Cyanide Destruction — Alkaline Chlorination	Y or N	1	AN
630–18d	Onsite Laboratory Aqueous Wastes with Cyanides, Cyanide Destruction — Electrochemical Oxidation	Y or N	1	AN
630–18e	Onsite Laboratory Aqueous Wastes with Cyanides, Cyanide Removal — Ion Exchange	Y or N	1	AN
630–18f	Onsite Laboratory Aqueous Wastes with Cyanides, Cyanide Removal — Reverse Osmosis	Y or N	1	AN
630–19	Electrowinning Process Solutions with Cyanides, Metal Recovery	Y or N	1	AN
630–20a	Process solutions with Cyanides added slowly to rinse tanks, Cyanide Destruction — Oxidation by Addition of Hypochlorite	Y or N	1	AN
630–20b	Process solutions with Cyanides added slowly to rinse tanks, Cyanide Destruction — Oxidation by Addition of Peroxide or Ozone, with or without Ultraviolet Light	Y or N	1	AN
630–20c	Process solutions with Cyanides added slowly to rinse tanks, Cyanide Destruction — Alkaline Chlorination	Y or N	1	AN
630–20d	Process solutions with Cyanides added slowly to rinse tanks, Cyanide Destruction — Electrochemical Oxidation	Y or N	1	AN
630–20e	Process solutions with Cyanides added slowly to rinse tanks, Cyanide Removal — Ion Exchange	Y or N	1	AN
630–20f	Process solutions with Cyanides added slowly to rinse tanks, Cyanide Removal — Reverse Osmosis	Y or N	1	AN

INFORMATION DESCRIPTION — Conditionally Exempt — Limited (CEL) Waste and Treatment Process Combinations. These are all of the eligible waste streams and treatment processes that are available within the tier.

ID	*Element*	*Edit Criteria/Code*	*Length*	*Type*
631-1	Aerosol Cans - Puncturing, Draining or Crushing (at Ambient Temperature) Using Wastestream & Treatment Technology Combination Certified by DTSC per HSC 25200.1.5	Valid Certified Technology Number	10	AN
631-2a	Used Oil Mixed w/Water, Oily Water (no Gasoline and <2% Diesel) - Gravity Separation	Y or N	1	AN
631-2b	Used Oil Mixed w/Water, Oily Water (no Gasoline and <2% Diesel) - Centrifuge	Y or N	1	AN
631-2c	Used Oil Mixed w/Water, Oily Water (no Gasoline and <2% Diesel) - Membrane Technology	Y or N	1	AN
631-2d	Used Oil Mixed w/Water, Oily Water (no Gasoline and <2% Diesel) - Heating to Temperature not above 20 Deg F below Flashpoint of the Used Oil Component of the Mixture at Atmospheric Pressure.	Y or N	1	AN
631-2e	Used Oil Mixed w/Water, Oily Water (no Gasoline and <2% Diesel) - Addition of Demulsifiers	Y or N	1	AN

HISTORY

1. New table filed 11-16-2004; operative 12-16-2004 (Register 2004, No. 47).
2. Amendment filed 12-18-2007; operative 1-17-2008 (Register 2007, No. 51).
3. Amendment filed 7-7-2008; operative 8-6-2008 (Register 2008, No. 28).

[The next page is 845.]

2. Certification of Financial Assurance

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
1	Facility ID Number	2 AN county 3 AN jurisdiction 6 AN facility number	11	AN	Number to allow cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.
2	EPA ID Number	12 digit identifier beginning with CA	12	AN	EPA Identification number for businesses that generate, recycle, or treat hazardous waste. For facilities in California, the number usually starts with the letters CA. The number can be obtained from the Telephone Information Center at (916)324-1781, (800) 61-TOXIC or (800) 618-6942.
3	Business Name	Postal standard: 2 lines, 35 characters	70	AN	Full legal name of the business.
700	Certification Status	a = initial certification b = amended certification c = annual certification	1	AN	Reason for submitting certification.
701	Type of Operation (Hazardous Waste Financial Assurance)	a = PBR-FTU b = CA c = other	1	AN	Type of operation.
702	Estimated Closure Costs		12	AN	Estimated closure costs in dollars. This section requires a written estimate of the cost of closing each treatment unit. The estimated closure cost may be either the actual cost or the estimated cost when using your own staff and/or personal equipment. The closure cost estimate may take into account any salvage value that may be realized from the sale of wastes, facility structure or equipment, land or other facility assets. For PBR only: If you have operated under PBR for less than 30 days in any calendar year, do not enter any dollar amount. You qualify for an exemption. If eligible for the exemption, enter □EXEMPT□ in this section.
703	Exemption From Financial Assurance = cost estimate < $10,000	Y or N	1	AN	Indicates if reason for exemption from financial assurance requirements is total closure cost estimate not more than $10,000. A model letter using the required certifications must be submitted to claim this exemption.
704	Exemption From Financial Assurance = other	Narrative	30	AN	Description of other reason for exemption from financial assurance requirements.
705	Exemption From Financial Assurance = TTU owner / operator and operated < 30 days/yr	Y or N	1	AN	Indicates if reason for exemption from financial assurance requirements is for owner or operator under PBR only and operating no more than thirty days in any calendar year.
706	Requirement for Financial Assurance	Y or N	1	AN	Indicates if financial assurance is required.
707	Date of Closure Assurance Mechanism	YYYYMMDD	8	D	Effective date of closure assurance mechanism.
708	Mechanism ID Number		25	AN	Number of closure assurance mechanism if applicable, for example, the insurance policy number.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
709	Closure Assurance Mechanism	a = closure trust fund b = surety bond c = closure letter of credit d = closure insurance e = financial test and corporate guarantee f = alternative mechanism g = multiple financial mechanisms h = certificate of deposit I = savings account	1	AN	Type of financial mechanism established to provide closure cost assurance. Eligible types for FTUs and TTUs are contained in CCR, Title 22, Section 67450.13(a)(5). a = closure trust fund, as provided in CCR Title 22, Section 66265.143(a) (Attach DTSC Form 1154) b = surety bond guaranteeing payment into a closure trust fund, as described in CCR, Title 22, Section 66265.143(b) (Attach DTSC Form 1155 or 1156 with DTSC Form 1154) c = closure letter of credit, as described in CCR, Title 22, Section 66265.143(c) (Attach DTSC Form 1157) d = closure insurance, as described in CCR, Title 22, Section 66265.143(d) (Attach DTSC Form 1158) e = financial test and corporate guarantee for closure, as described in CCR, Title 22, Section 66265.143(e) (Attach either DTSC Form 1159 or 1173) f = alternative mechanism for closure costs, as described in CCR, Title 22, Section 67450.13(c) (No form) g = multiple financial mechanisms for closure costs, as described in CCR, Title 22, Section 66265.143(g) (No form) h = certificate of deposit, as described in Section 3-104(j) of the Uniform Commercial Code (No form) i = savings account, as described in Section 4-104(a) of the Uniform Commercial Code (No form) These mechanisms require use of the additional DTSC Financial Assurance forms referenced above. These forms are available from the CUPA or the DTSC Regional Office.
710	Financial Institution or Surety Name		35	AN	Name of the financial institution, insurance company, surety company, or other appropriate organization used to establish the closure financial assurance. Indicate your company if you are using a corporate guarantee and financial test.
711	Financial Institution or Surety Address	Postal standard: 2 lines, 35 characters	70	AN	Address of financial institution, insurance company, surety company, or other appropriate organization used to establish the closure financial assurance.
712	Financial Institution or Surety City	Postal standard	20	AN	City of financial institution, insurance company, surety company, or other appropriate organization used to establish the closure financial assurance.
713	Financial Institution or Surety State	Valid 2-digit state code	2	AN	State of financial institution, insurance company, surety company, or other appropriate organization used to establish the closure financial assurance.
714	Financial Institution or Surety Zip Code	Postal standard	9	AN	Zip code of financial institution, insurance company, surety company, or other appropriate organization used to establish the closure financial assurance.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
715	Signer of Certification	a = owner b = operator	1	AN	Indicates if signer of certification is the owner or operator of the facility.
716	Date Certified (Financial Assurance)	YYYYMMDD	8	D	Date the document was signed.
717	Owner/ Operator Name (Financial Assurance)		35	AN	Full name of business owner/operator, or officially designated representative of the owner/operator. The person signing this page must be an owner or officer of the company who is authorized to make decisions for the facility and who has operational control. The authorized signatory must be completed as specified in CCR, Title 22, Section 66270.11. In most companies, this is not the environmental compliance or technical staff. The signer certifies to a belief that all the information submitted is accurate and complete.
718	Owner/ Operator Title (Financial Assurance)		35	AN	Title of person signing the page.

HISTORY

1. New table filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).

4. Remote Waste Consolidation Site Annual Notification

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
1	Facility ID Number	2 AN county 3 AN jurisdiction 6 AN facility number	11	AN	Number to allow cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.
2	EPA ID Number	12 digit identifier beginning with CA	12	AN	EPA Identification number for businesses that generate, recycle, or treat hazardous waste. For facilities in California, the number usually starts with the letters CA. The number can be obtained from the Telephone Information Center at (916) 324-1781, (800) 61-TOXIC or (800) 618-6942.
3	Business Name	Postal standard: 2 lines, 35 characters	70	AN	Full legal name of business.
720	Notification Status (Remote Consolidation)	a = initial b = revised c = annual	1	AN	Reason for submitting notification.
721	Address (Remote Consolidation)	Postal standard: 2 lines, 35 characters	70	AN	Street address or legal description of consolidation site.
722	City (Remote Consolidation)	Postal standard	20	AN	City of consolidation site.
723	Zip Code (Remote Consolidation)	Postal standard	9	AN	Zip Code of consolidation site.
724	Description Of Remote Consolidation Location(s)	Narrative	150	AN	Description of type of remote location(s) and sources(s) from which non-RCRA hazardous waste will be collected.
725	Description Of Waste(s) Collected	Narrative	150	AN	Description of type of hazardous waste that may be collected.
726	Onsite Hazardous Waste Treatment	Y or N	1	AN	Indicates if hazardous waste is treated at consolidation site.
727	Estimated Monthly Volume Consolidated		10	N	Estimated monthly total volume consolidated.
728	Units (Remote Consolidation)	a = pounds b = gallons	1	AN	Units for estimated monthly total volume consolidated.
729a	Basis For Not Needing A Federal Permit (Remote Consolidation) = non-RCRA hazardous waste	Y or N	1	AN	Indicates if activity is exempt from, or not otherwise regulated by, the federal Resource Conservation and Recovery Act (RCRA).
729b	Basis For Not Needing A Federal Permit (Remote Consolidation) = other	Narrative	60	AN	Description of other reason(s) activity is not subject to permitting requirements under federal law.
730	Date Certified (Remote Consolidation)	YYYYMMDD	8	D	Date the document was signed.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
731	Owner/Operator Name (Remote Consolidation)		35	AN	Full name of business owner/operator, or officially designated representative of the owner/operator. The person signing this page must be an owner or officer of the company who is authorized to make decisions for the facility and who has operational control. In most companies, this is not the environmental compliance or technical staff. The signer certifies to a belief that all the information submitted is accurate and complete.
732	Owner/Operator Title (Remote Consolidation)		35	AN	Title of person signing the page.

HISTORY

1. New table filed 11-16-2004; operative 12-16-2004 (Register 2004, No. 47).

F. Hazardous Waste Tank Closure Certification

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
1	Facility ID Number	2 AN county 3 AN jurisdiction 6 AN facility number	11	AN	Number to allow cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.
3	Business Name		70	AN	Full legal name of the business.
740	Tank Owner Name (Closure)		35	AN	Name of tank owner, if different from business owner on Business Owner/Operator page.
741	Tank Owner Address (Closure)	Postal standard: 2 lines, 35 characters	70	AN	Street or mailing address of tank owner, if different from business owner.
742	Tank Owner City (Closure)	Postal standard	20	AN	City of tank owner, if different from business owner.
743	Tank Owner State (Closure)	Postal standard	2	AN	State of tank owner, if different from business owner.
744	Tank Owner Zip Code (Closure)	Postal standard	9	AN	Zip code of tank owner, if different from business owner.
745	Tank ID # 1 (Closure)		6	AN	Owner's tank ID # for first tank closed, if there is a tank number used by owner to identify the tank. Unique identifier of tank at site.
746a	Concentration of Flammable Vapor 1 = top	4 digits with floating decimal	5	AN	Concentration of flammable vapor for first tank closed taken at top of tank.
746b	Concentration of Flammable Vapor 1 = center	4 digits with floating decimal	5	AN	Concentration of flammable vapor for first tank closed taken at center of tank.
746c	Concentration of Flammable Vapor 1 = bottom	4 digits with floating decimal	5	AN	Concentration of flammable vapor for first tank closed taken at bottom of tank.
747a	Concentration of Oxygen 1 = top	4 digits with floating decimal	5	AN	Concentration of oxygen for first tank closed taken at top of tank.
747b	Concentration of Oxygen 1 = center	4 digits with floating decimal	5	AN	Concentration of oxygen for first tank closed taken at center of tank.
747c	Concentration of Oxygen 1 = bottom	4 digits with floating decimal	5	AN	Concentration of oxygen for first tank closed taken at bottom of tank.
748	Tank ID # 2 (Closure)		6	AN	Owner's tank ID # for second tank closed, if there is a tank number used by owner to identify the tank. Unique identifier of tank at site.
749a	Concentration of Flammable Vapor 2 = top	4 digits with floating decimal	5	AN	Concentration of flammable vapor for second tank closed taken at top of tank.
749b	Concentration of Flammable Vapor 2 = center	4 digits with floating decimal	5	AN	Concentration of flammable vapor for second tank closed taken at center of tank.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
749c	Concentration of Flammable Vapor 2 = bottom	4 digits with floating decimal	5	AN	Concentration of flammable vapor for second tank closed taken at bottom of tank.
750a	Concentration of Oxygen 2 = top	4 digits with floating decimal	5	AN	Concentration of oxygen for second tank closed taken at top of tank.
750b	Concentration of Oxygen 2 = center	4 digits with floating decimal	5	AN	Concentration of oxygen for second tank closed taken at center of tank.
750c	Concentration of Oxygen 2 = bottom	4 digits with floating decimal	5	AN	Concentration of oxygen for second tank closed taken at bottom of tank.
751	Tank ID # 3 (Closure)		6	AN	Owner's tank ID # for third tank closed, if there is a tank number used by owner to identify the tank. Unique identifier of tank at site.
752a	Concentration of Flammable Vapor 3 = top	4 digits with floating decimal	5	AN	Concentration of flammable vapor for third tank closed taken at top of tank.
752b	Concentration of Flammable Vapor 3 = center	4 digits with floating decimal	5	AN	Concentration of flammable vapor for third tank closed taken at center of tank.
752c	Concentration of Flammable Vapor 3 = bottom	4 digits with floating decimal	5	AN	Concentration of flammable vapor for third tank closed taken at bottom of tank.
753a	Concentration of Oxygen 3 = top	4 digits with floating decimal	5	AN	Concentration of oxygen for third tank closed taken at top of tank.
753b	Concentration of Oxygen 3 = center	4 digits with floating decimal	5	AN	Concentration of oxygen for third tank closed taken at center of tank.
753c	Concentration of Oxygen 3 = bottom	4 digits with floating decimal	5	AN	Concentration of oxygen for third tank closed taken at bottom of tank.
If more than three tanks are closed, complete additional copies of the Hazardous Waste Tank Closure Certification page.					
754	Certifier Name (Tank Closure)		35	AN	Full name of person signing the page.
755	Certifier Title (Tank Closure)		35	AN	Title of person signing the page.
756	Certifier Address (Tank Closure)	Postal standard: 2 lines, 35 characters	70	AN	Address of person signing the page.
757	Certifier City (Tank Closure)	Postal standard	20	AN	City of person signing the page.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
758	Certifier Phone (Tank Closure)	Area code + 7 digit phone number + extension	15	AN	Phone number of person signing the page.
759	Date Certified (Tank Closure)	YYYMMDD	8	D	Date the document was signed.
760	Certifier Represents Local Agency	Y or N	1	AN	Indicates if person certifying the tank is a representative of the CUPA, authorized agency, or LIA.
761	Name of Local Agency	Narrative	35	AN	Name of CUPA, authorized agency, or LIA.
762a	Affiliation of Certifying Person = Certified Industrial Hygienist	Y or N	1	AN	Certification, license or organization which the certifier holds or to which the certifier belongs, if the person does not represent the CUPA.
762b	Affiliation of Certifying Person = Certified Safety Professional	Y or N	1	AN	Certification, license or organization which the certifier holds or to which the certifier belongs, if the person does not represent the CUPA.
762c	Affiliation of Certifying Person = Certified Marine Chemist	Y or N	1	AN	Certification, license or organization which the certifier holds or to which the certifier belongs, if the person does not represent the CUPA.
762d	Affiliation of Certifying Person = Registered Environmental Health Specialist	Y or N	1	AN	Certification, license or organization which the certifier holds or to which the certifier belongs, if the person does not represent the CUPA.
762e	Affiliation of Certifying Person = Professional Engineer	Y or N	1	AN	Certification, license or organization which the certifier holds or to which the certifier belongs, if the person does not represent the CUPA.
762f	Affiliation of Certifying Person = Class II Registered Environmental Assessor	Y or N	1	AN	Certification, license or organization which the certifier holds or to which the certifier belongs, if the person does not represent the CUPA.
762g	Affiliation of Certifying Person = Licensed Contractor	Y or N	1	AN	Certification, license or organization which the certifier holds or to which the certifier belongs, if the person does not represent the CUPA.
763	Tank Held Flammable or Combustible Materials	Y or N	1	AN	Indicates if tank previously held flammable or combustible materials. If yes, the tank interior atmosphere shall be re-checked with a combustible gas indicator prior to work being conducted on the tank.
764	Management Instructions	Narrative	150	AN	Certifier's tank management instructions for scrap dealer, disposal facility, etc.

HISTORY

1. New table filed 11-16-2004; operative 12-16-2004 (Register 2004, No. 47).

Chapter 5. UP Information Collection and Reporting Standards Unified Program Data Dictionary — CUPA Section

1. Compliance Activity Information

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
1	Facility ID Number	2 AN county 3 AN jurisdiction 6 AN facility number	11	AN	Number to allow cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.
2	EPA ID Number	12 digit identifier beginning with CA	12	AN	EPA identification number for businesses that generate, recycle, or treat hazardous waste. For facilities in California, the number should start with the letters CA. If the handler is regulated under Federal RCRA requirements, this ID must be the U.S. EPA identification number.
3	Business Name	Postal standard: 2 lines, 35 character	70	AN	Full legal name of business.
900	RCRA Large Quantity Generator (LQG) of Hazardous Waste	Y or N	1	AN	Indicates if facility generates 1000 kg of RCRA hazardous waste in a calendar month. Identification is based on the business□ notification of LQG activity to U.S. EPA. If the designation is incorrect, the CUPA cannot change the designation unless the business notifies U.S. EPA.
901	Generator of Solely California Hazardous Waste	Y or N	1	AN	Indicates if facility generates solely California hazardous waste and does not generate any RCRA waste.
902	CalARP Program: Stationary Source	Y or N	1	AN	Indicates if facility is a stationary source as defined by the CalARP program.
903	CalARP Program: Multiple Stationary Sources	Y or N	1	AN	Indicates if business operates multiple locations in this CUPA jurisdiction that are stationary sources as defined by the CalARP program.
904	CalARP Program: RMP Waiver Determination	Y or N	1	AN	Indicates if the CUPA has waived the requirement for a Risk Management Plan for this stationary source (a RMP waiver).

HISTORY

1. New chapter 5 and table filed 11-16-2004; operative 12-16-2004 (Register 2004, No. 47).
2. Amendment filed 12-18-2007; operative 1-17-2008 (Register 2007, No. 51).

2. Inspection Information

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
1	Facility ID Number	2 AN county 3 AN jurisdiction 6 AN facility number	11	AN	Number to allow cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.
3	Business Name	Postal standard: 2 lines, 35 characters	70	AN	Full legal name of business.
905	Program Element	a = Hazardous Materials Release Response Plans (HMRRP) b = California Accidental Release Prevention (CalARP) c = Underground Storage Tank (UST) d = Spill Prevention Control and Countermeasures (SPCC) / Aboveground Storage Tank e = Hazardous Waste Generator f = Hazardous Waste RCRA Large Quantity Generator (RCRA LQG) (subset of Hazardous Waste Generator) g = Hazardous Waste Recycler h = Permit by Rule (PBR) i = Conditionally Authorized (CA) (only available if PBR is not used) j = Conditionally Exempt (CE) (only available if PBR and CA are not used) k = Household Hazardous Waste (HHW)	1	AN	Program elements inspected. Enter one program element only. For example, a facility inspected for compliance with UST, hazardous waste and hazardous materials storage regulations would have three records, one for each program element. Each record would have a unique set of violations, even though all inspections took place on the same date. For Tiered Permitting options enter the highest tier.
906	Inspection Date	YYYYMMDD	8	D	Date of completion of inspection.
907	Inspection Type	a = Routine b = Other	1	AN	Indicates if inspection is routine or other. A routine inspection is a regularly scheduled inspection to evaluate compliance. Does not include follow-up inspections. Other inspections include complaint investigations, closure, release investigations, tank installation and/or removal oversight, tank cleaning, and follow-up enforcement inspections, or other inspections that may be in addition to a regularly scheduled inspection. This includes verification inspections for owners/operators of aboveground storage tanks having to prepare a spill prevention control and countermeasure plan. It does not include regularly scheduled inspections, field or site visits whose principle purpose is informational or educational, pollution prevention education, or visits needed to verify administrative information or orient new owners or operators. A complaint inspection is a service request originating from any outside party, including the public, that initiates a site visit outside of the routine inspection cycle.
909	Pct RTC 90		3	N	Percent (whole number) of routine inspections with Class I or Class II Violations that Returns to Compliance within 90 Days.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
910	Number of Class I Violations		2	N	A Class I violation means a deviation that represents a significant threat to human health or safety or the environment because of the volume of the material, the relative hazardousness of the material, or the proximity of the population at risk. The deviation must be significant enough that it could result in releases of material to the environment, material failing to be delivered to an authorized facility, failure to detect releases of material, inadequate financial resources in the case of releases of material, or inadequate financial resources to pay for facility closure, perform emergency cleanup operations or other corrective actions. A Class I violation is also a deviation that is a chronic violation or committed by a recalcitrant violator. A Class I violation is typically one that is could be referred to the District Attorney or City Attorney for formal enforcement action. Sanctions are typically imposed for failure to correct the violation. Class I violations are defined in the Health and Safety Code (HSC) section 25110.8.5.
911	Number of Class II Violations		2	N	A Class II violation means a deviation that is not a Class I violation. This count includes violations which would be considered minor, but are knowing, willful, or intentional, or enable the violator to benefit economically from noncompliance, either by reduced costs or competitive advantage. Do not include minor violations in this count. Class II violations are defined in 22 California Code of Regulations (CCR) 66260.10.
912	Number of Minor Violations		2	N	A minor violation means a deviation from any regulation, standard, requirement, or permit condition, that is not a Class I violation. Exclude from this count all violations where the violation is knowing, willful, or intentional, or enables the violator to benefit economically from noncompliance, either by reduced costs or competitive advantage. These are counted as Class II violations. Also exclude any violation that is a chronic violation or that is committed by a recalcitrant violator, since these are counted as Class I violations.
913a	Significant Operational Compliance	a = with only release detection b = with only release prevention c = with both release detection and release prevention d = No Significant Operational Compliance	1	AN	Indicates if facility contains significant operational compliance criteria for release detection, release prevention, or both based on the inspection.
913b	Red Tag Issued	Y or N	1	AN	Indicates if a red tag was issued.
913c	Red Tag Number		5	AN	Identification Number of the Red Tag affixed at the facility. If the tag # is only four digits, insert a zero (0) before the first number: 0xxxx.
913d	Violations Causing Red Tag	1= violation threatening/causing liquid release. 2=violation impairing ability of UST system to detect a leak. 3=chronic violation or committed by recalcitrant violator.	1	AN	Reason for affixing the red tag. Must be a significant violation.
913e	Date Red Tag Affixed	YYYYMMDD	8	D	Date Red Tag affixed to the fill pipe.

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
913f	Date Red Tag Removed	YYYYMMDD	8	D	Date Red Tag removed.
914	Type of Enforcement Action	a = Notice of Violation (NOV) Only b = AEO - Local Ordinance c = AEO - UP d = Referral to State Attorney General e = Referral to District Attorney f = Referral to County Council or City Attorney g = Referral to US Attorney h = Referral to State Agency I = Referral to Federal Agency j = Referral to Other	1	AN	A notice of violation (NOV) is an informal enforcement action taken by a CUPA. A NOV is written documentation that informs a business of non-compliance and establishes a date by which the non-compliance is to be corrected. A CUPA takes formal enforcement action on non-compliant businesses by initiating administrative enforcement orders and/or referring the case to the State Attorney General, District Attorney, County Council or City Attorney, US Attorney, State Agency, Federal Agency, or other. A formal enforcement action mandates return to compliance by imposing punitive and criminal penalties to businesses that fail to comply. If more than one enforcement action is taken, the type and date of each action should be recorded.
917	Date Returned to Compliance	YYYYMMDD	8	D	Date physical compliance was determined by the CUPA for all violations identified during the inspection. This may not be based on a site visit, but is the date compliance was verified. It may be based on correspondence received from the regulated business.
917a	Date a Referred Case Settled or Dropped	YYYYMMDD	8	D	Date a referred case is settled or dropped. No date means that the case is open.

HISTORY

1. New table filed 11-16-2004; operative 12-16-2004 (Register 2004, No. 47).
2. Amendment filed 12-18-2007; operative 1-17-2008 (Register 2007, No. 51).

3. Enforcement Information

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
1	Facility ID Number	2 AN county 3 AN jurisdiction 6 AN facility number	11	AN	Number to allow cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.
3	Business Name	Postal standard: 2 lines, 35 characters	70	AN	Full legal name of business.
905	Program Element	a = Hazardous Materials Release Response Plans (HMRRP) b = California Accidental Release Prevention (CalARP) c = Underground Storage Tank (UST) d = Spill Prevention Control and Countermeasures (SPCC) / Aboveground Storage Tank e = Hazardous Waste Generator f = Hazardous Waste Large Quantity Generator (LQG) (subset of Hazardous Waste Generator) g = Hazardous Waste Recycler h = Permit by Rule (PBR) I = Conditionally Authorized (CA) (only available if PBR is not used) j = Conditionally Exempt (CE) (only available if PBR and CA are not used) k = Household Hazardous Waste (HHW) - Fixed	2	AN	Program elements inspected. Enter one program element only. For example, a facility inspected for compliance with UST, hazardous waste and hazardous materials storage regulations would have three records, one for each program element. Each record would have a unique set of violations, even though all inspections took place on the same date. For Tiered Permitting options enter the highest tier.
915	Date of Enforcement Action	YYYYMMDD	8	D	Date the enforcement action is taken. The date of enforcement action is the date the order is sent to the business, a final referral is made to the Attorney General, District Attorney or County Attorney, the complaint is filed with the court, or the date the administrative order is issued. If more than one enforcement action is taken, the type and date of each action should be recorded.
916	Type of Formal Enforcement Action	a = Administrative b = Civil c = Criminal d = Civil/Criminal	1	AN	Type of formal enforcement action.
918	Docket Number		13	AN	Number assigned by the court for civil and criminal actions.
919	Final Fine or Penalty Assessed		8	AN	Dollar amount of fine or penalty assessed. This is the final monetary penalty or fine assessed via court or administrative order, or the amount agreed upon in a formal legal settlement. It is based on the value of fines / penalties excluding costs. Round to nearest whole number. Do not use decimal places. Note the fine or penalty is by program element for each enforcement action at each facility, when available. Does not include Supplemental Environmental Projects (SEPs).
920	Supplemental Environmental Projects Value		8	AN	Dollar amount/value of SEPs.
921	Significant Non-Complier	Y or N	1	AN	Only applies to RCRA hazardous waste facilities. SNC is defined under federal rules.

HISTORY

1. New table filed 11-16-2004; operative 12-16-2004 (Register 2004, No. 47).
2. Amendment filed 12-18-2007; operative 1-17-2008 (Register 2007, No. 51).

4. Tiered Permitting Release Information

ID	*Element*	*Edit Criteria/Codes*	*Length*	*Type*	*Information Description*
1	Facility ID Number	2 AN county 3 AN jurisdiction 6 AN facility number	11	AN	Number to allow cross linking of data. County and jurisdiction number from tax code list. This number is assigned by the CUPA. This is the unique number which identifies the facility.
3	Business Name	Postal standard: 2 lines, 35 characters	70	AN	Full legal name of business.
922	Date of Release	YYYYMMDD	8	D	Date of release at a facility treating hazardous waste onsite under PBR, CA, or CE. A reportable release is from any activity at the facility, not just from one of the Tiered Permitting units.
923	Description of Release and Consequences	Narrative	200	AN	Description of the circumstances of the release and actions subsequently taken.
924	Date Corrective Action Completed	YYYYMMDD	8	D	Date corrective action was completed. If no corrective action was needed, then leave blank.

HISTORY

1. New table filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).

Chapter 6. Unified Program Consolidated Forms

Business Activities

UNIFIED PROGRAM CONSOLIDATED FORM
FACILITY INFORMATION

BUSINESS ACTIVITIES

Page 1 of

I. FACILITY IDENTIFICATION

FACILITY ID # (Agency Use Only)	1	EPA ID # (Hazardous Waste Only)	2
BUSINESS NAME (Same as Facility Name of DBA-Doing Business As)			3
BUSINESS SITE ADDRESS			103
BUSINESS SITE CITY	104	CA ZIP CODE	105

II. ACTIVITIES DECLARATION

NOTE: If you check YES to any part of this list, please submit the Business Owner/Operator Identification page.

Does your facility...	If Yes, please complete these pages of the UPCF....	
A. HAZARDOUS MATERIALS Have on site (for any purpose) at any one time, hazardous materials at or above 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet for compressed gases (include liquids in ASTs and USTs); or the applicable Federal threshold quantity for an extremely hazardous substance specified in 40 CFR Part 355, Appendix A or B; or handle radiological materials in quantities for which an emergency plan is required pursuant to 10 CFR Parts 30, 40 or 70?	☐ YES ☐ NO 4	HAZARDOUS MATERIALS INVENTORY - CHEMICAL DESCRIPTION
B. REGULATED SUBSTANCES Have Regulated Substances stored onsite in quantities greater than the threshold quantities established by the California Accidental Release prevention Program (CalARP)?	☐ YES ☐ NO 4a	Coordinate with your local agency responsible for CalARP.
C. UNDERGROUND STORAGE TANKS (USTs) Own or operate underground storage tanks?	☐ YES ☐ NO 5	UST FACILITY (Formerly SWRCB Form A) UST TANK (one page per tank) (Formerly Form B)
D. ABOVE GROUND PETROLEUM STORAGE Own or operate ASTs above these thresholds: Store greater than 1,320 gallons of petroleum products (new or used) in aboveground tanks or containers.	☐ YES ☐ NO 8	NO FORM REQUIRED TO CUPAs
E. HAZARDOUS WASTE Generate hazardous waste?	☐ YES ☐ NO 9	EPA ID NUMBER - provide at the top of this page
Recycle more than 100 kg/month of excluded or exempted recyclable materials (per HSC 25143.2)?	☐ YES ☐ NO 10	RECYCLABLE MATERIALS REPORT (one per recycler)
Treat hazardous waste on-site?	☐ YES ☐ NO 11	ON-SITE HAZARDOUS WASTE TREATMENT - FACILITY ON-SITE HAZARDOUS WASTE TREATMENT - UNIT (one page per unit)
Treatment subject to financial assurance requirements (for Permit by Rule and Conditional Authorization)?	☐ YES ☐ NO 12	CERTIFICATION OF FINANCIAL ASSURANCE
Consolidate hazardous waste generated at a remote site?	☐ YES ☐ NO 13	REMOTE WASTE / CONSOLIDATION SITE ANNUAL NOTIFICATION
Need to report the closure/removal of a tank that was classified as hazardous waste and cleaned on-site?	☐ YES ☐ NO 14	HAZARDOUS WASTE TANK CLOSURE CERTIFICATION
Generate in any single calendar month 1,000 kilograms (kg) (2,200 pounds) or more of federal RCRA hazardous waste, or generate in any single calendar month, or accumulate at any time, 1 kg (2.2 pounds) of RCRA acute hazardous waste; or generate or accumulate at any time more than 100 kg (220 pounds) of spill cleanup materials contaminated with RCRA acute hazardous waste.	☐ YES ☐ NO 14a	Obtain federal EPA ID Number, file Biennial Report (EPA Form 8700-13A/B), and satisfy requirements for RCRA Large Quantity Generator.
Household Hazardous Waste (HHW) Collection site?	☐ YES ☐ NO 14b	See CUPA for required forms.
F. LOCAL REQUIREMENTS (You may also be required to provide additional information by your CUPA or local agency.)		15

UPCF Rev. (12/2007)

Business Activities

Please submit the Business Activities page, the Business Owner/Operator Identification page, and Hazardous Materials Inventory - Chemical Description pages for all submissions. (Note: the numbering of the instructions follows the data element numbers that are on the Unified Program Consolidated Form (UPCF) pages. These data element numbers are used for electronic submission and are the same as the numbering used in Division 3, Electronic Submittal of Information). Please number all pages of your submittal. This helps your CUPA or AA identify whether the submittal is complete and if any pages are separated.

1. FACILITY ID NUMBER - Leave this blank. This number is assigned by the Certified Unified Program Agency (CUPA) or Administering Agency (AA). This is the unique number which identifies your facility.
2. EPA ID NUMBER - If you generate, recycle, or treat hazardous waste, enter your facility's 12-character U.S. Environmental Protection Agency (U.S. EPA) or California Identification number. For facilities in California, the number usually starts with the letters □CA□. If you do not have a number, contact the Department of Toxic Substances Control (DTSC) Telephone Information Center at (916) 324-1781, (800) - 61-TOXIC or (800) 61-86942, to obtain one.
3. BUSINESS NAME - Enter the full legal name of the business. This is the same as the terms □Facility Name□ or □DBA - Doing Business As□ that might have been used in the past.

103. BUSINESS SITE ADDRESS - Enter the street address where the facility is located. No post office box numbers are allowed. This information must provide a means to geographically locate the facility.

104. BUSINESS SITE CITY - Enter the city or unincorporated area in which business site is located.

105. ZIP CODE - Enter the zip code of business site. The extra 4 digit zip may also be added.

4. HAZARDOUS MATERIALS –

Check the box to indicate whether you have a hazardous material onsite. You have a hazardous material onsite if:

- It is handled in quantities equal to or greater than 500 pounds, 55 gallons, or 200 cubic feet of compressed gas (calculated at standard temperature and pressure),
- It is handled in quantities equal to or greater than the applicable federal threshold planning quantity for an extremely hazardous substance listed in 40 CFR Part 355, Appendix A,
- Radioactive materials are handled in quantities for which an emergency plan is required to be adopted pursuant to Part 30, Part 40, or Part 70 of Chapter 10 of 10 CFR, or pursuant to any regulations adopted by the state in accordance with these regulations.

If you have a hazardous material onsite, then you must complete the Business Owner/Operator Identification page and the Hazardous Materials Inventory - Chemical Description page, as well as an Emergency Response Plan and Training Plan.

Do not answer □YES□ to this question if you exceed only a local threshold, but do not exceed the state threshold.

4a. REGULATED SUBSTANCES – Refer to 19 CCR 2770.5 for regulated substances. Check the box to indicate whether your facility has CalARP regulated substances stored onsite.

5. OWN OR OPERATE UNDERGROUND STORAGE TANK (UST) - Check the appropriate box to indicate whether you own or operate USTs containing hazardous substances as defined in Health and Safety Code (HSC) 25316. If □YES□, then you must complete one UST Facility page and UST Tank pages for each tank. You must also submit a plot plan and a monitoring program plan.

8. OWN OR OPERATE ABOVEGROUND PETROLEUM STORAGE TANK OR CONTAINER - Check the appropriate box to indicate whether there are ASTs onsite which exceed the regulatory thresholds. (There is no UPCF page for ASTs.) This program applies to all facilities storing petroleum in aboveground tanks. Petroleum means crude oil, or any fraction thereof, which is liquid at 60 degrees Fahrenheit temperature and 14.7 pounds per square inch absolute pressure (HSC 25270.2 (g)). The facility must have a cumulative storage capacity greater than 1,320 gallons for all ASTs. NOT Subject to the Act (exemptions):

An aboveground petroleum storage tank (AST) facility with one or more of the following (see HSC 25270.2 (k)) is not subject to this act and is exempt:

- A pressure vessel or boiler which is subject to Division 5 of the Labor Code,
- A storage tank containing hazardous waste if a hazardous waste facility permit has been issued for the storage tank by DTSC,
- An aboveground oil production tank which is regulated by the Division of Oil and Gas,
- Certain oil-filled electrical equipment including but not limited to transformers, circuit breakers, or capacitors.

9. HAZARDOUS WASTE GENERATOR - Check the appropriate box to indicate whether your facility generates hazardous waste. A generator is the person or business whose acts or processes produce a hazardous waste or who causes a hazardous substance or waste to become subject to State hazardous waste law. If your facility generates hazardous waste, you must obtain and use an EPA Identification number (ID) in order to properly transport and dispose of it. Report your EPA ID number in #2. Hazardous waste means a waste that meets any of the criteria for the identification of a hazardous waste adopted by DTSC pursuant to HSC 25141. "Hazardous waste" includes, but is not limited to, federally regulated hazardous waste. Federal hazardous waste law is known as the Resource Conservation and Recovery Act (RCRA). Unless explicitly stated otherwise, the term "hazardous waste" also includes extremely hazardous waste and acutely hazardous waste.

10. RECYCLE - Check the appropriate box to indicate whether you recycle more than 100 kilograms per month of recyclable material under a claim that the material is excluded or exempt per HSC 25143.2. Check □YES□ and complete the Recyclable Materials Report pages, if you either recycled onsite or recycled excluded recyclable materials which were generated offsite. Check □NO□ if you only send recyclable materials to an offsite recycler. You do not need to report.

11. ONSITE HAZARDOUS WASTE TREATMENT - Check the appropriate box to indicate whether your facility engages in onsite treatment of hazardous waste. "Treatment" means any method, technique, or process which is designed to change the physical, chemical, or biological character or composition of any hazardous waste or any material contained therein, or removes or reduces its harmful properties or characteristics for any purpose. "Treatment" does not include the removal of residues from manufacturing process equipment for the purposes of cleaning that equipment. Amendments (effective 1/1/99) add exemptions from the definition of □treatment□ for certain processes under specific, limited conditions. Refer to HSC 25123.5 (b) for these specific exemptions. Treatment of certain laboratory hazardous wastes do not require authorization. Refer to HSC 25200.3.1 for specific information. Please contact your CUPA to determine if any exemptions apply to your facility. If your facility engages in onsite treatment of hazardous waste then complete the Onsite Hazardous Waste Treatment Notification - Facility page and one set of Onsite Hazardous Waste Treatment Notification - Unit pages with waste and treatment process information for each unit.

12. FINANCIAL ASSURANCE - Check the appropriate box to indicate whether your facility is subject to financial assurance requirements for closure of an onsite treatment unit. Unless they are exempt, Permit by Rule (PBR) and Conditionally Authorized (CA) operations are required to provide financial assurance for closure costs (per 22 CCR 67450.13 (b) and HSC 25245.4). If your facility is subject to financial assurance requirements or claiming an exemption, then complete the Certification of Financial Assurance page.

13. REMOTE WASTE CONSOLIDATION SITE - Check the appropriate box to indicate whether your facility consolidates hazardous waste generated at a remote site. Answer □YES□ if you are a hazardous waste generator that collects hazardous waste initially at remote sites and subsequently transports the hazardous waste to a consolidation site you also operate. You must be eligible pursuant to the conditions in HSC 25110.10. If your facility consolidates hazardous waste generated at a remote site, then complete the Remote Waste Consolidation Site Annual Notification page.

14. HAZARDOUS WASTE TANK CLOSURE - Check the appropriate box to indicate whether the tank being closed would be classified as hazardous waste after its contents are removed. Classification could be based on:

- Your knowledge of the tank and its contents
- Testing of the tank
- Inability to remove hazardous materials stored in the tank.
- The mixture rule
- The listed wastes in 40 CFR 261.31 or 40 CFR 261.32.

If the tank being closed would be classified as hazardous waste after its contents are removed, then you must complete the Hazardous Waste Tank Closure Certification page.

14a. RCRA LQG - Check the appropriate box to indicate whether your facility is a Large Quantity Generator. If YES, you must have or obtain a US EPA ID Number.

14b. HOUSEHOLD HAZARDOUS WASTE COLLECTION - Check the appropriate box to indicate whether your facility is a HHW Collection site.

15. LOCAL REQUIREMENTS - Some CUPAs or AAs may require additional information. Check with your CUPA before submitting the UPCF to determine if any supplemental information is required.

UPCF Rev. (12/2007)

HISTORY

1. New chapter 6 and relocation and amendment of UPCF Business Activities form from Division 1, Subdivision 4, Appendix E, filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).
2. Amendment filed 12–18–2007; operative 1–17–2008 (Register 2007, No. 51).

Business Owner/Operator Identification

UNIFIED PROGRAM CONSOLIDATED FORM

FACILITY INFORMATION

BUSINESS OWNER/OPERATOR IDENTIFICATION

Page ___ of ___

I. IDENTIFICATION

FACILITY ID# 1		BEGINNING DATE 100	ENDING DATE 101
BUSINESS NAME (Same as FACILITY NAME or DBA - Doing Business As) 3		BUSINESS PHONE 102	
BUSINESS SITE ADDRESS 103		BUSINESS FAX 102a	
BUSINESS SITE CITY 104	CA	ZIP CODE 105	COUNTY 108
DUN & BRADSTREET 106		PRIMARY SIC 107	PRIMARY NAICS 107a
BUSINESS MAILING ADDRESS 108a			
BUSINESS MAILING CITY 108b		STATE 108c	ZIP CODE 108d
BUSINESS OPERATOR NAME 109		BUSINESS OPERATOR PHONE 110	

II. BUSINESS OWNER

OWNER NAME 111		OWNER PHONE 112	
OWNER MAILING ADDRESS 113			
OWNER MAILING CITY 114		STATE 115	ZIP CODE 116

III. ENVIRONMENTAL CONTACT

CONTACT NAME 117		CONTACT PHONE 118	
CONTACT MAILING ADDRESS 119		CONTACT EMAIL 119a	
CONTACT MAILING CITY 120		STATE 121	ZIP CODE 122

IV. EMERGENCY CONTACTS

-PRIMARY-		-SECONDARY-	
NAME 123		NAME 128	
TITLE 124		TITLE 129	
BUSINESS PHONE 125		BUSINESS PHONE 130	
24-HOUR PHONE 126		24-HOUR PHONE 131	
PAGER # 127		PAGER # 132	

ADDITIONAL LOCALLY COLLECTED INFORMATION: 133

Certification: Based on my inquiry of those individuals responsible for obtaining the information, I certify under penalty of law that I have personally examined and am familiar with the information submitted and believe the information is true, accurate, and complete.

SIGNATURE OF OWNER/OPERATOR OR DESIGNATED REPRESENTATIVE	DATE 134	NAME OF DOCUMENT PREPARER 135
NAME OF SIGNER (print) 136	TITLE OF SIGNER 137	

UPCF (Rev. 12/2007)

Business Owner/Operator Identification

Please submit the Business Activities page, the Business Owner/Operator Identification page, and Hazardous Materials Inventory - Chemical Description pages for all hazardous materials inventory submissions. For the inventory to be considered complete this page must be signed by the appropriate individual. (Note: the numbering of the instructions follows the data element numbers that are on the Unified Program Consolidated Form (UPCF) pages. These data element numbers are used for electronic submission and are the same as the numbering used in Division 3, Electronic Submittal of Information.) Please number all pages of your submittal. This helps Unified Program Agency (UPA) identify whether the submittal is complete and if any pages are separated.

1. FACILITY ID NUMBER - Leave this blank. This number is assigned by the UPA. This is the unique number which identifies your facility.
3. BUSINESS NAME - Enter the doing business as name.
100. BEGINNING DATE - Enter the beginning year and date of the report. (YYYYMMDD)
101. ENDING DATE - Enter the ending year and date of the report. (YYYYMMDD)
102. BUSINESS PHONE - Enter the phone number, area code first, and any extension.
102a. BUSINESS FAX – Enter the business fax number, area code first.
103. BUSINESS SITE ADDRESS - Enter the street address where the facility is located. No post office box numbers are allowed. This information must provide a means to geographically locate the facility.
104. BUSINESS SITE CITY - Enter the city or unincorporated area in which business site is located.
105. ZIP CODE - Enter the zip code of business site. The extra 4 digit zip may also be added.
106. DUN & BRADSTREET – If subject to EPCRA, enter the Dun & Bradstreet number for the facility. The Dun & Bradstreet number may be obtained by calling (610) 882-7748 or on the web at www.dnb.com.
107. SIC NUMBER - Enter the primary Standard Industrial Classification System Number. Required for EPCRA.
107a. NAICS NUMBER - Enter the primary North American Industrial Classification System Number.
108. COUNTY - Enter the county in which the business site is located.
108a. BUSINESS MAILING ADDRESS – Enter the mailing address to be used for all official business correspondence. This mailing address must be filled in.
108b. BUSINESS MAILING CITY - Enter the name of the city for the business mailing address.
108c. STATE - Enter the two character abbreviation of the state for the business mailing address.
108d. ZIP CODE - Enter the zip code for the business mailing address. The extra 4 digit zip may also be added.
109. BUSINESS OPERATOR NAME - Enter the name of the business operator.
110. BUSINESS OPERATOR PHONE - Enter business operator phone number, if different from business phone, area code first, and any extension.
111. BUSINESS OWNER NAME - Enter name of business owner, if different from business operator.
112. BUSINESS OWNER PHONE - Enter the business owner's phone number if different from business phone, area code first, and any extension.
113. BUSINESS OWNER MAILING ADDRESS - Enter the owner's mailing address, if different from business mailing address.
114. BUSINESS OWNER CITY - Enter the name of the city for the owner's mailing address, if different from business mailing address.
115. BUSINESS OWNER STATE - Enter the 2 character state abbreviation for the owner's mailing address, if different from business mailing address.
116. BUSINESS OWNER ZIP CODE - Enter the zip code for the owner's address, if diff erent from business mailing address. The extra 4 digit zip may also be added.
117. ENVIRONMENTAL CONTACT NAME - Enter the name of the person, who receives all environmental correspondence.
118. CONTACT PHONE - Enter the phone number, if different from Owner or Operator, for the environmental contact, area code first, and any extension.
119. CONTACT MAILING ADDRESS - Enter the mailing address where all environmental contact correspondence should be sent.
119a CONTACT EMAIL – Enter the email address of the environmental contact in 117, if the contact has one.
120. CONTACT MAILING CITY - Enter the name of the city for the environmental contact's mai ling address.
121. STATE - Enter the 2 character state abbreviation for the environmental contact's mai ling address.
122. ZIP CODE - Enter the zip code for the environmental contact's ma iling address. The extra 4 digit zip may also be added.
123. PRIMARY EMERGENCY CONTACT NAME - Enter the name of a representative to be contacted in case there is an emergency involving hazardous materials at the business site. The contact shall have FULL facility access, site familiarity, and authority to make decisions for the business regarding incident mitigation.
124. TITLE - Enter the title of the primary emergency contact.
125. BUSINESS PHONE - Enter the business number for the primary emergency contact, area code first, and any extensions.
126. 24-HOUR PHONE - Enter a 24-hour phone number for the primary emergency contact. The 24-hour phone number must be one which is answered 24 hours a day. If it is not the contact's home phone number, then the service answering the phone must be able to immediately contact the individual stated above.
127. PAGER NUMBER - Enter the pager number for the primary emergency contact, if available.
128. SECONDARY EMERGENCY CONTACT NAME - Enter the name of a secondary representative that can be contacted in the event that the primary emergency contact is not available. The contact shall have FULL facility access, site familiarity, and authority to make decisions for the business regarding incident mitigation.
129. TITLE - Enter the title of the secondary emergency contact.
130. BUSINESS PHONE - Enter the business telephone number for the secondary emergency contact, area code first, and any extension.
131. 24-HOUR PHONE - Enter a 24-hour phone number for the secondary emergency contact. The 24 hour phone number must be one which is answered 24 hours a day. If it is not the contact's home phone number, then the service answering the phone must be able to immediately contact the individual stated above.
132. PAGER NUMBER - Enter the pager number for the secondary emergency contact, if available.
133. ADDITIONAL LOCALLY COLLECTED INFORMATION - This space may be used for UPA to collect any additional information necessary to meet the requirements of their individual programs. Contact UPA for guidance.
134. DATE - Enter the date that the document was signed. (YYYYMMDD)
135. NAME OF DOCUMENT PREPARER - Enter the full name of the person who prepared the inventory submittal information.
136. NAME OF SIGNER - Enter the full printed name of the person signing the page. The signer certifies to a familiarity with the information submitted and that based on the signer's inqu iry of those individuals responsible for obtaining the information, all the information submitted is true, accurate and complete.

SIGNATURE OF OWNER/ OPERATOR OR DESIGNATED REPRESENTATIVE - The Business Owner/Operator, or officially designated representative of the Owner/Operator, shall sign in the space provided. This signature certifies that the signer is familiar with the information submitted and that based on the signer's inqu iry of those individuals responsible for obtaining the information it is the signer's bel ief that the submitted information is true, accurate and complete.

137. TITLE OF SIGNER - Enter the title of the person signing the page.

UPCF (Rev. 12/2007)

HISTORY

1. Relocation and amendment of OES form 2730 from Division 1, Subdivision 4, Appendix E, filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).
2. Amendment filed 12–18–2007; operative 1–17–2008 (Register 2007, No. 51).

Hazardous Materials

UNIFIED PROGRAM CONSOLIDATED FORM
HAZARDOUS MATERIALS
HAZARDOUS MATERIALS INVENTORY – CHEMICAL DESCRIPTION
(one page per material per building or area)

☐ADD ☐DELETE ☐REVISE 200 Page ___ of ___

I. FACILITY INFORMATION

BUSINESS NAME (Same as FACILITY NAME or DBA - Doing Business As) 3

CHEMICAL LOCATION 201 | CHEMICAL LOCATION CONFIDENTIAL EPCRA ☐ YES ☐ NO 202

FACILITY ID # 1 | MAP# (optional) 203 | GRID# (optional) 204

II. CHEMICAL INFORMATION

CHEMICAL NAME 205 | TRADE SECRET ☐ Yes ☐ No 206 (If Subject to EPCRA, refer to instructions)

COMMON NAME 207 | EHS* ☐ Yes ☐ No 208

CAS# 209 | *If EHS is "Yes", all amo unts below must be in lbs.

FIRE CODE HAZARD CLASSES (Complete if required by CUPA) 210

HAZARDOUS MATERIAL TYPE (Check one item only) ☐ a. PURE ☐ b. MIXTURE ☐ c. WASTE 211 | RADIOACTIVE ☐ Yes ☐ No 212 | CURIES 213

PHYSICAL STATE (Check one item only) ☐ a. SOLID ☐ b. LIQUID ☐ c. GAS 214 | LARGEST CONTAINER 215

FED HAZARD CATEGORIES (Check all that apply) ☐ a. FIRE ☐ b. REACTIVE ☐ c. PRESSURE RELEASE ☐ d. ACUTE HEALTH ☐ e. CHRONIC HEALTH 216

AVERAGE DAILY AMOUNT 217	MAXIMUM DAILY AMOUNT 218	ANNUAL WASTE AMOUNT 219	STATE WASTE CODE 220

UNITS* (Check one item only) ☐ a. GALLONS ☐ b. CUBIC FEET ☐ c. POUNDS ☐ d. TONS 221 * If EHS, amount must be in pounds. | DAYS ON SITE: 222

STORAGE CONTAINER
☐ a. ABOVE GROUND TANK ☐ b. UNDERGROUND TANK ☐ c. TANK INSIDE BUILDING ☐ d. STEEL DRUM ☐ e. PLASTIC/NONMETALLIC DRUM ☐ f. CAN ☐ g. CARBOY ☐ h. SILO ☐ i. FIBER DRUM ☐ j. BAG ☐ k. BOX ☐ l. CYLINDER ☐ m. GLASS BOTTLE ☐ n. PLASTIC BOTTLE ☐ o. TOTE BIN ☐ p. TANK WAGON ☐ q. RAIL CAR ☐ r. OTHER 223

STORAGE PRESSURE ☐ a. AMBIENT ☐ b. ABOVE AMBIENT ☐ c. BELOW AMBIENT 224

STORAGE TEMPERATURE ☐ a. AMBIENT ☐ b. ABOVE AMBIENT ☐ c. BELOW AMBIENT ☐ d. CRYOGENIC 225

%WT	HAZARDOUS COMPONENT (For mixture or waste only)	EHS	CAS #
1 226	227	☐ Yes ☐ No 228	229
2 230	231	☐ Yes ☐ No 232	233
3 234	235	☐ Yes ☐ No 236	237
4 238	239	☐ Yes ☐ No 240	241
5 242	243	☐ Yes ☐ No 244	245

If more hazardous components are present at greater than 1% by weight if non-carcinogenic, or 0.1% by weight if carcinogenic, attach additional sheets of paper capturing the required information.

ADDITIONAL LOCALLY COLLECTED INFORMATION 246

If EPCRA, Please Sign Here

UPCF (Rev. 12/2007)

Hazardous Materials Inventory - Chemical Description

You must complete a separate Hazardous Materials Inventory - Chemical Description page for each hazardous material (hazardous substances and hazardous waste) that you handle at your facility in aggregate quantities equal to or greater than 500 pounds, 55 gallons, 200 cubic feet of gas (calculated at standard temperature and pressure) or the federal threshold planning quantity for Extremely Hazardous Substances, whichever is less. Also complete a page for each radioactive material handled over quantities for which an emergency plan is required to be adopted pursuant to 10 CFR Parts 30, 40, or 70. The completed inventory should reflect all reportable quantities of hazardous materials at your facility, reported **separately** for each building or outside adjacent area, with **separate** pages for unique occurrences of physical state, storage temperature and storage pressure. (Note: the numbering of the instructions follows the data element numbers that are on the Unified Program Consolidated Form (UPCF) pages. These data element numbers are used for electronic submission and are the same as the numbering used in Division 3, Electronic Submittal of Information.) Please number all pages of your submittal. This helps your CUPA or AA identify whether the submittal is complete and if any pages are separated.

1. FACILITY ID NUMBER - This number is assigned by the CUPA or AA. This is the unique number which identifies your facility.
3. BUSINESS NAME - Enter the full legal name of the business.
200. ADD/DELETE/ REVISE - Indicate if the material is being added to the inventory, deleted from the inventory, or if the information previously submitted is being revised. NOTE: You may choose to leave this blank if you resubmit your entire inventory annually.
201. CHEMICAL LOCATION - Enter the building or outside/ adjacent area where the hazardous material is handled. A chemical that is stored at the same pressure and temperature, in multiple locations within a building, can be reported on a single page. NOTE: This information is not subject to public disclosure pursuant to HSC §25506.
202. CHEMICAL LOCATION CONFIDENTIAL - EPCRA - All businesses which are subject to the Emergency Planning and Community Right to Know Act (EPCRA) must check "Yes" to keep chemical location information confidential. If the business does not wish to keep chemical location information confidential check "No".
203. MAP NUMBER - If a map is included, enter the number of the map on which the location of the hazardous material is shown.
204. GRID NUMBER - If grid coordinates are used, enter the grid coordinates of the map that correspond to the location of the hazardous material. If applicable, multiple grid coordinates can be listed.
205. CHEMICAL NAME - Enter the proper chemical name associated with the Chemical Abstract Service (CAS) number of the hazardous material. This should be the International Union of Pure and Applied Chemistry (IUPAC) name found on the Material Safety Data Sheet (MSDS). NOTE: If the chemical is a mixture, do not complete this field; complete the "COMMON NAME" field instead.
206. TRADE SECRET - Check "Yes" if the information in this section is declared a trade secret, or "No" if it is not.
State requirement: If yes, and business is not subject to EPCRA, disclosure of the designated trade secret information is bound by HSC §25511.
Federal requirement: If yes, and business is subject to EPCRA, disclosure of the designated Trade Secret information is bound by 40 CFR and the business must submit a "Substantiation to Accompany Claims of Trade Secrecy" form (40 CFR 350.27) to USEPA.
207. COMMON NAME - Enter the common name or trade name of the hazardous material or mixture containing a hazardous material.
208. EHS - Check "Yes" if the hazardous material is an Extremely Hazardous Substance (EHS), as defined in 40 CFR, Part 355, Appendix A. If the material is a mixture containing an EHS, leave this section blank and complete the section on hazardous components below.
209. CAS # - Enter the Chemical Abstract Service (CAS) number for the hazardous material. For mixtures, enter the CAS number of the mixture if it has been assigned a number distinct from its components. If the mixture has no CAS number, leave this column blank and report the CAS numbers of the individual hazardous components in the appropriate section below.
210. FIRE CODE HAZARD CLASSES - Fire Code Hazard Classes describe to first responders the type and level of hazardous materials which a business handles. This information shall only be provided if the local fire chief deems it necessary and requests the CUPA or AA to collect it. A list of the hazard classes and instructions on how to determine which class a material falls under are included in the appendices of Article 80 of the Uniform Fire Code. If a material has more than one applicable hazard class, include all. Contact CUPA or AA for guidance.
211. HAZARDOUS MATERIAL TYPE - Check the one box that best describes the type of hazardous material: pure, mixture or waste. If waste material, check only that box. If mixture or waste, complete hazardous components section.
212. RADIOACTIVE - Check "Yes" if the hazardous material is radioactive or "No" if it is not.
213. CURIES - If the hazardous material is radioactive, use this area to report the activity in curies. You may use up to nine digits with a floating decimal point to report activity in curies.
214. PHYSICAL STATE - Check the one box that best describes the state in which the hazardous material is handled: solid, liquid or gas.
215. LARGEST CONTAINER - Enter the total capacity of the largest container in which the material is stored.
216. FEDERAL HAZARD CATEGORIES - Check all categories that describe the physical and health hazards associated with the hazardous material.

PHYSICAL HAZARDS	HEALTH HAZARDS
Fire: Flammable Liquids and Solids, Combustible Liquids, Pyrophorics, Oxidizers	**Acute Health (Immediate):** Highly Toxic, Toxic, Irritants, Sensitizers, Corrosives, other hazardous chemicals with an adverse effect with short term exposure
Reactive: Unstable Reactive, Organic Peroxides, Water Reactive, Radioactive	
Pressure Release: Explosives, Compressed Gases, Blasting Agents	**Chronic Health (Delayed):** Carcinogens, other hazardous chemicals with an adverse effect with long term exposure

217. AVERAGE DAILY AMOUNT - Calculate the average daily amount of the hazardous material or mixture containing a hazardous material, in each building or adjacent/ outside area. Calculations shall be based on the previous year's inventory of material reported on this page. Total all daily amounts and divide by the number of days the chemical will be on site. If this is a material that has not previously been present at this location, the amount shall be the average daily amount you project to be on hand during the course of the year. This amount should be consistent with the units reported in box 221 and should not exceed that of maximum daily amount.
218. MAXIMUM DAILY AMOUNT - Enter the maximum amount of each hazardous material or mixture containing a hazardous material, which is handled in a building or adjacent/outside area at any one time over the course of the year. This amount must contain at a minimum last year's inventory of the material reported on this page, with the reflection of additions, deletions, or revisions projected for the current year. This amount should be consistent with the units reported in box 221.
219. ANNUAL WASTE AMOUNT - If the hazardous material being inventoried is a waste, provide an estimate of the annual amount handled.
220. STATE WASTE CODE - If the hazardous material is a waste, enter the appropriate California 3-digit hazardous waste code as listed on the back of the Uniform Hazardous Waste Manifest.
221. UNITS - Check the unit of measure that is most appropriate for the material being reported on this page: gallons, pounds, cubic feet or tons. NOTE: If the material is a federally defined Extremely Hazardous Substance (EHS), all amounts must be reported in pounds. If material is a mixture containing an EHS, report the units that the material is stored in (gallons, pounds, cubic feet, or tons).
222. DAYS ON SITE - List the total number of days during the year that the material is on site.
223. STORAGE CONTAINER - Check all boxes that describe the type of storage containers in which the hazardous material is stored. NOTE: If appropriate, you may choose more than one.
224. STORAGE PRESSURE - Check the one box that best describes the pressure at which the hazardous material is stored.
225. STORAGE TEMPERATURE - Check the one box that best describes the temperature at which the hazardous material is stored.
226. HAZARDOUS COMPONENTS 1-5 (% BY WEIGHT) - Enter the percentage weight of the hazardous component in a mixture. If a range of percentages is available, report the highest percentage in that range. (Report for components 2 through 5 in 230, 234, 238, and 242.)
227. HAZARDOUS COMPONENTS 1-5 NAME - When reporting a hazardous material that is a mixture, list up to five chemical names of hazardous components in that mixture by percent weight (refer to MSDS or, in the case of trade secrets, refer to manufacturer). All hazardous components in the mixture present at greater than 1% by weight if non-carcinogenic, or 0.1% by weight if carcinogenic, should be reported. If more than five hazardous components are present above these percentages, you may attach an additional sheet of paper to capture the required information. When reporting waste mixtures, mineral and chemical composition should be listed. (Report for components 2 through 5 in 231, 235, 239, and 243.)
228. HAZARDOUS COMPONENTS 1-5 EHS - Check "Yes" if the component of the mixture is considered an Extremely Hazardous Substance as defined in 40 CFR, Part 355, or "No" if it is not. (Report for components 2 through 5 in 232, 236, 240, and 244.)
229. HAZARDOUS COMPONENTS 1-5 CAS - List the Chemical Abstract Service (CAS) numbers as related to the hazardous components in the mixture. (Repeat for 2-5.)
246. LOCALLY COLLECTED INFORMATION - This space may be used by the CUPA or AA to collect any additional information necessary to meet the requirements of their individual programs. Contact the CUPA or AA for guidance.

UPCF (Rev. 12/2007)

HISTORY

1. Relocation and amendment of OES form 2731 from Division 1, Subdivision 4, Appendix E, filed 11-16-2004; operative 12-16-2004 (Register 2004, No. 47).
2. Amendment filed 12-18-2007; operative 1-17-2008 (Register 2007, No. 51).

Underground Storage Tanks: Facility Information

UNIFIED PROGRAM CONSOLIDATED FORM
UNDERGROUND STORAGE TANK
OPERATING PERMIT APPLICATION – FACILITY INFORMATION
(One form per facility)

TYPE OF ACTION (Check one item only) 400
☐ 1. NEW PERMIT ☐ 5. CHANGE OF INFORMATION ☐ 7. PERMANENT FACILITY CLOSURE
☐ 3. RENEWAL PERMIT ☐ 6. TEMPORARY FACILITY CLOSURE ☐ 9. TRANSFER PERMIT

I. FACILITY INFORMATION

TOTAL NUMBER OF USTs AT FACILITY 404.

FACILITY ID # (Agency Use Only) 1.

BUSINESS NAME (Same as FACILITY NAME or DBA – Doing Business As) 3.

BUSINESS SITE ADDRESS 103.

CITY 104.

FACILITY TYPE 403.
☐ 1. MOTOR VEHICLE FUELING ☐ 2. FUEL DISTRIBUTION
☐ 3. FARM ☐ 4. PROCESSOR ☐ 6. OTHER

Is the facility located on Indian Reservation or Trust lands? ☐ Yes ☐ No 405.

II. PROPERTY OWNER INFORMATION

PROPERTY OWNER NAME 407.

PHONE 408.
( )

MAILING ADDRESS 409.

CITY 410.

STATE 411.

ZIP CODE 412.

III. TANK OPERATOR INFORMATION

TANK OPERATOR NAME 428-1.

PHONE 428-2.
( )

MAILING ADDRESS 428-3.

CITY 428-4.

STATE 428-5.

ZIP CODE 428-6.

IV. TANK OWNER INFORMATION

TANK OWNER NAME 414.

PHONE 415.
( )

MAILING ADDRESS 416.

CITY 417.

STATE 418.

ZIP CODE 419.

OWNER TYPE: 420.
☐ 4. LOCAL AGENCY/DISTRICT ☐ 5. COUNTY AGENCY ☐ 6. STATE AGENCY
☐ 7. FEDERAL AGENCY ☐ 8. NON-GOVERNMENT

V. BOARD OF EQUALIZATION UST STORAGE FEE ACCOUNT NUMBER

TY (TK) HQ 44- Call the State Board of Equalization, Fuel Tax Division, if there are questions. 421.

VI. PERMIT HOLDER INFORMATION

Issue permit and send legal notifications and mailings to: 423.
☐ 1. FACILITY OWNER ☐ 4. TANK OPERATOR
☐ 3. TANK OWNER ☐ 5. FACILITY OPERATOR

SUPERVISOR OF DIVISION, SECTION, OR OFFICE (Required For Public Agencies Only) 406.

VII. APPLICANT SIGNATURE

CERTIFICATION: I certify that the information provided herein is true, accurate, and in full compliance with legal requirements.

APPLICANT SIGNATURE

DATE 424.

PHONE 425.
( )

APPLICANT NAME (print) 426.

APPLICANT TITLE 427.

UPCF UST-A 12/2007

UST Operating Permit Application – Facility Information Page 1 Instructions
(Formerly SWRCB UST Permit Application Form A and UPCF Form hwfwrc-a)

Complete this form for all new permits, permit changes, or facility information changes. This form must be submitted within 30 days of permit or facility information changes, unless your local agency requires approval prior to making the changes. For changes, submit only that form that contains the change.

Submit one UST Operating Permit Application – Facility Information form per facility, regardless of the number of USTs located at the facility. If not already on file with the local agency, the tank owner must submit with this form, a current UST Operating Permit Application – Tank Information form for each UST; a UST Monitoring Plan and a UST Response Plan pursuant to 23 CCR 2632, 2634 and 2641; and, for USTs containing petroleum, a certification of financial responsibility pursuant to 23 CCR 2807.

The following documents, at a minimum, are also required, if applicable (check with your local agency to see if they require submittal or if there are other forms/information needed):

- ❑ Written agreement between UST Owner and UST Operator per Health and Safety Code §25284(a)(3);
- ❑ Letter from the Chief Financial Officer (if using State Cleanup Fund, financial test of self-insurance, guarantee, local government financial test, or Local Government Fund as a financial responsibility mechanism).

Please number all pages of your submittal. (Note: Numbering of these instructions matches the data element numbers on the form.)

400. TYPE OF ACTION – Check the reason this form is being submitted. CHECK ONE ITEM ONLY.
404. TOTAL NUMBER OF USTs AT SITE – Indicate the number of tanks that will remain on the site after the requested action.
1. FACILITY ID NUMBER – This space is for agency use only.
3. BUSINESS NAME – Enter the complete Business Name. (Same as FACILITY NAME or DBA (Doing Business As)).
103. BUSINESS SITE ADDRESS – Enter the street address of the facility, including building number, if applicable. This address must be the physical location of the facility. Post office box numbers are not acceptable.
104. CITY – Enter the city or unincorporated area in which the facility is located.
403. FACILITY TYPE – Indicate the type of facility.
405. INDIAN RESERVATION OR TRUST LANDS – Check whether the facility is located on an Indian reservation or other trust lands.
407. PROPERTY OWNER NAME –
408. PROPERTY OWNER PHONE –
409. PROPERTY OWNER MAILING ADDRESS –
410. PROPERTY OWNER CITY –
411. PROPERTY OWNER STATE –
412. PROPERTY OWNER ZIP CODE –

Complete items 407 - 412 for the property owner. Include the area code and any extension number.

428-1. TANK OPERATOR NAME –
428-2. TANK OPERATOR PHONE –
428-3. TANK OPERATOR MAILING ADDRESS –
428-4. TANK OPERATOR CITY –
428-5. TANK OPERATOR STATE –
428-6. TANK OPERATOR ZIP CODE –

Complete items 428-1 to 428-6 for the UST operator. Include the area code and any extension number.

414. TANK OWNER NAME –
415. TANK OWNER PHONE –
416. TANK OWNER MAILING ADDRESS –
417. TANK OWNER CITY –
418. TANK OWNER STATE –
419. TANK OWNER ZIP CODE –

Complete items 414 - 419 for the UST owner. Include the area code and any extension number.

420. TANK OWNER TYPE – Check the type of tank ownership.
421. BOE NUMBER – Enter your State Board of Equalization (BOE) UST storage fee account number. This fee applies to regulated USTs storing petroleum products and is required before your permit application will be processed. If you do not have an account number with the BOE, or if you have any questions regarding the fee or exemptions, contact the BOE at (916) 322-9669 or by mail at: Board of Equalization, Fuel Taxes Division, PO Box 942879, Sacramento, CA 94279-0030.
423. PERMIT HOLDER INFORMATION – Indicate the party to whom the UST operating permit is to be issued and legal notifications and mailings should be sent.
406. SUPERVISOR OF DIVISION SECTION OR OFFICE SUPERVISOR – If the facility owner is a public agency, enter the name of the supervisor of the division section or office that operates the UST. This person must have access to the UST records.

APPLICANT SIGNATURE – The application form must be signed, in the space provided, by:

- The UST owner or operator, facility owner or operator, or a duly authorized representative of the owner; or
- If the UST(s) is/are owned by a corporation, partnership, or public agency:
  1.) A principal executive officer at the level of vice-president or by an authorized representative responsible for the overall operation of the facility where the UST(s) is/are located; or
  2.) A general partner or proprietor; or
  3.) A principal executive officer, ranking elected official, or authorized representative of a public agency.

424. DATE – Enter the date the form was signed.
425. PHONE – Enter the phone number of the applicant (i.e., person signing the form). Include the area code and any extension number.
426. APPLICANT NAME – Print or type the full name of the person signing the form.
427. APPLICANT TITLE – Enter the title of the person signing the form.

UPCF UST–A 12/2007

History

1. Relocation and amendment of former SWRCB form A from Division 1, Subdivision 4, Appendix E, filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).
2. Amendment filed 12–18–2007; operative 1–17–2008 (Register 2007, No. 51).

Underground Storage Tanks: Tank Information

UNIFIED PROGRAM CONSOLIDATED FORM
UNDERGROUND STORAGE TANK
OPERATING PERMIT APPLICATION – TANK INFORMATION (One form per UST)

TYPE OF ACTION (Check one item only. For an UST permanent closure or removal, complete only this section and Sections I, II, III, IV, and IX below) 430
☐ 1. NEW PERMIT ☐ 3. RENEWAL PERMIT ☐ 5. CHANGE OF INFORMATION
☐ 6. TEMPORARY UST CLOSURE ☐ 7. UST PERMANENT CLOSURE ON SITE ☐ 8. UST REMOVAL

DATE UST PERMANENTLY CLOSED: 430a | DATE EXISTING UST DISCOVERED: 430b

I. FACILITY INFORMATION

FACILITY ID # (*Agency Use Only*) 1
BUSINESS NAME (Same as FACILITY NAME or DBA-Doing Business As) 3
BUSINESS SITE ADDRESS 103 | CITY 104

II. TANK DESCRIPTION

TANK ID # 432 | TANK MANUFACTURER 433 | TANK CONFIGURATION: THIS TANK IS 434
☐ 1. A STAND-ALONE TANK
☐ 2. ONE IN A COMPARTMENTED UNIT.
Complete one page for each compartment in the unit.

DATE UST SYSTEM INSTALLED 435 | TANK CAPACITY IN GALLONS 436 | NUMBER OF COMPARTMENTS IN THE UNIT 437

III. TANK USE AND CONTENTS

TANK USE ☐ 1a. MOTOR VEHICLE FUELING ☐ 1b. MARINA FUELING ☐ 1c. AVIATION FUELING 439
☐ 3. CHEMICAL PRODUCT STORAGE ☐ 4. HAZARDOUS WASTE (Includes Used Oil) ☐ 5. EMERGENCY GENERATOR FUEL [HSC §25281.5(c)]
☐ 6. OTHER GENERATOR FUEL ☐ 95. UNKNOWN ☐ 99. OTHER (Specify): 439a

CONTENTS PETROLEUM: ☐ 1a. REGULAR UNLEADED ☐ 1c. MIDGRADE UNLEADED ☐ 1b. PREMIUM UNLEADED 440
☐ 3. DIESEL ☐ 5. JET FUEL ☐ 6. AVIATION GAS
☐ 8. PETROLEUM BLEND FUEL ☐ 9. OTHER PETROLEUM (Specify): 440a
NON-PETROLEUM: ☐ 7. USED OIL ☐ 10. ETHANOL
☐ 11. OTHER NON-PETROLEUM (Specify): 440b

IV. TANK CONSTRUCTION

TYPE OF TANK ☐ 1. SINGLE WALL ☐ 2. DOUBLE WALL ☐ 95. UNKNOWN 443
PRIMARY CONTAINMENT ☐ 1. STEEL ☐ 3. FIBERGLASS ☐ 6. INTERNAL BLADDER 444
☐ 7. STEEL + INTERNAL LINING ☐ 95. UNKNOWN ☐ 99. OTHER (Specify): 444a
SECONDARY CONTAINMENT ☐ 1. STEEL ☐ 3. FIBERGLASS ☐ 6. EXTERIOR MEMBRANE LINER ☐ 7. JACKETED 445
☐ 90. NONE ☐ 95. UNKNOWN ☐ 99. OTHER (Specify): 445a
OVERFILL PREVENTION ☐ 1. AUDIBLE & VISUAL ALARMS ☐ 2. BALL FLOAT ☐ 3. FILL TUBE SHUT-OFF VALVE 452
☐ 4. TANK MEETS REQUIREMENTS FOR EXEMPTION FROM OVERFILL PREVENTION EQUIPMENT

V. PRODUCT / WASTE PIPING CONSTRUCTION

PIPING CONSTRUCTION ☐ 1. SINGLE-WALLED ☐ 2. DOUBLE-WALLED ☐ 99. OTHER 460
SYSTEM TYPE ☐ 1. PRESSURE ☐ 2. GRAVITY ☐ 3. CONVENTIONAL SUCTION ☐ 4. SAFE SUCTION [23 CCR §2636(a)(3)] 458
PRIMARY CONTAINMENT ☐ 1. STEEL ☐ 4. FIBERGLASS ☐ 8. FLEXIBLE ☐ 10. RIGID PLASTIC 464
☐ 90. NONE ☐ 95. UNKNOWN ☐ 99. OTHER(Specify): 464a
SECONDARY CONTAINMENT ☐ 1. STEEL ☐ 4. FIBERGLASS ☐ 8. FLEXIBLE ☐ 10. RIGID PLASTIC 464b
☐ 90. NONE ☐ 95. UNKNOWN ☐ 99. OTHER (Specify): 464c
PIPING/TURBINE CONTAINMENT SUMP TYPE ☐ 1. SINGLE WALL ☐ 2. DOUBLE WALL ☐ 90. NONE 464d

VI. VENT, VAPOR RECOVERY (VR) AND RISER / FILL PIPE PIPING CONSTRUCTION

VENT PRIMARY CONTAINMENT	☐ 1. STEEL	☐ 4. FIBERGLASS	☐ 10. RIGID PLASTIC	☐ 90. NONE	☐ 99. OTHER (Specify)	464e / 464e1
VENT SECONDARY CONTAINMENT	☐ 1. STEEL	☐ 4. FIBERGLASS	☐ 10. RIGID PLASTIC	☐ 90. NONE	☐ 99. OTHER (Specify)	464f / 464f1
VR PRIMARY CONTAINMENT	☐ 1. STEEL	☐ 4. FIBERGLASS	☐ 10. RIGID PLASTIC	☐ 90. NONE	☐ 99. OTHER (Specify)	464g / 464g1
VR SECONDARY CONTAINMENT	☐ 1. STEEL	☐ 4. FIBERGLASS	☐ 10. RIGID PLASTIC	☐ 90. NONE	☐ 99. OTHER (Specify)	464h / 464h1
VENT PIPING TRANSITION SUMP TYPE	☐ 1. SINGLE WALL		☐ 2. DOUBLE WALL	☐ 90. NONE		464i
RISER PRIMARY CONTAINMENT	☐ 1. STEEL	☐ 4. FIBERGLASS	☐ 10. RIGID PLASTIC	☐ 90. NONE	☐ 99. OTHER (Specify)	464j / 464j1
RISER SECONDARY CONTAINMENT	☐ 1. STEEL	☐ 4. FIBERGLASS	☐ 10. RIGID PLASTIC	☐ 90. NONE	☐ 99. OTHER (Specify)	464k / 464k1
FILL COMPONENTS INSTALLED	☐ 1. SPILL BUCKET	☐ 3. STRIKER PLATE/BOTTOM PROTECTOR	☐ 4. CONTAINMENT SUMP			451a-c

VII. UNDER DISPENSER CONTAINMENT (UDC)

CONSTRUCTION TYPE ☐ 1. SINGLE WALL ☐ 2. DOUBLE WALL ☐ 3. NO DISPENSERS ☐ 90. NONE 469a
CONSTRUCTION MATERIAL ☐ 1. STEEL ☐ 4. FIBERGLASS ☐ 10. RIGID PLASTIC ☐ 99. OTHER (Specify) 469b-c

VIII. CORROSION PROTECTION

STEEL COMPONENT PROTECTION ☐ 2. SACRIFICIAL ANODE(S) ☐ 4. IMPRESSED CURRENT ☐ 6. ISOLATION 448

IX. APPLICANT SIGNATURE

CERTIFICATION: I certify that this UST system is compatible with the hazardous substance stored and that the information provided herein is true, accurate, and in full compliance with legal requirements.

APPLICANT SIGNATURE | DATE 470.
APPLICANT NAME (print) 471. | APPLICANT TITLE 472.

UPCF UST-B (12/2007) Rev. 12/2007

UST Operating Permit Application – Tank Information Instructions

(Formerly SWRCB Permit Application Form B and UPCF Form hwfwrc-b)

Complete a separate form for each UST for all new permits, permit changes, and any UST system information changes. This form must be submitted within 30 days of permit or UST system information changes, unless your local agency requires approval prior to making changes. For tanks that are part of a compartmentalized unit, each compartment is considered a separate tank and requires completion of a separate Tank Information form. For a UST permanent closure or removal, complete only TYPE OF ACTION and Sections I, II, III, IV, and IX. (Note: Numbering of these instructions matches the data element numbers on the form.)

430. TYPE OF ACTION – Check the appropriate box to indicate why this form is being submitted.
430a. DATE UST PERMANENTLY CLOSED – For reporting closure only: enter the date the UST was removed or closed on site.
430b. DATE EXISTING UST DISCOVERED – Enter the date this UST was discovered. Leave blank if installation date is known.
1. FACILITY ID NUMBER – This space is for agency use only.
3. BUSINESS NAME – Enter the complete facility name.
103. BUSINESS SITE ADDRESS – Enter the street address of the facility, including building number, if applicable. This address must be the physical location of the facility. Post office box numbers are not acceptable.
104. CITY – Enter the city or unincorporated area in which the facility is located.
432. TANK ID # – Applicant may enter the owner's tank identification number or leave this space blank. The Local Agency will assign the State tank identification number as the unique identifier for the tank.
433. TANK MANUFACTURER – Enter the name of the company that manufactured the tank.
434. TANK CONFIGURATION. Check the appropriate box to indicate if the tank is a stand-alone tank or one in a compartmented unit. A separate UST Operating Permit Application – Tank Information form must be submitted for each compartment.
435. DATE UST SYSTEM INSTALLED – Enter the date the local agency signed-off on installation of the UST system. This is the date of initial tank system installation, and does not include upgrades or retrofits which may have been performed later. If this is for a new installation, leave blank.
436. TANK CAPACITY IN GALLONS: Enter the tank capacity. For compartmentalized tanks, enter data for the compartment covered by this tank form only.
437. NUMBER OF COMPARTMENTS IN THE UNIT: If the tank is a compartment, enter the total number of compartments in the unit.
439. TANK USE – Check the type of tank usage.
439a. If you checked "Other" specify the type of tank usage in the space provided.
440. TANK CONTENTS – Check the specific petroleum or non-petroleum substance stored.
440a. If you checked "Other Petroleum" specify the common name of the substance in the space provided [i.e., the name used in the facility's Hazardous Materials Business Plan (HMBP) inventory].
440b. If you checked "Other" under Non-petroleum, specify the common name of substance in the space provided (i.e., the name used in the HMBP inventory).
443. TYPE OF TANK – Check the box that identifies the type of tank.
444. TANK PRIMARY CONTAINMENT – Check the construction material of the primary containment (i.e., inner tank wall nearest the hazardous substance stored). If the tank material is not listed, check "Other" and specify the material in the space provided.
444a. If you checked "Other" specify the type of primary containment in the space provided.
445. TANK SECONDARY CONTAINMENT – Check the construction material of the secondary containment that provides containment external to, and separate from, the primary containment described above. If the tank is a single-wall tank, check "None." If the material is not listed, check "Other" and specify the material in the space provided (e.g., HDPE).
445a. If you checked "Other" specify the type of secondary containment in the space provided.
452 OVERFILL PREVENTION – Check the box(es) to describe the type(s) of overfill protection equipment installed.
458. PIPING SYSTEM TYPE – Check the type of product/waste piping installed in this tank system. "Safe suction" refers to piping systems meeting all requirements of 23 CCR §2636(a)(3) (also known as "European Suction" systems) (i.e., sloped suction piping systems with no valves or pumps below grade and only one check valve, located below and as close as practical to the suction pump). Title 23, California Code of Regulations is available online at www.calregs.com.
460. PIPING CONSTRUCTION-Indicate if the piping is single-walled or double-walled, or "other".
464. PIPING PRIMARY CONTAINMENT – Check the material(s) used to construct the primary (i.e., inner) underground product/waste piping.
464a. If you checked "Other" specify the type of primary containment in the space provided.
464b. PIPING SECONDARY CONTAINMENT – Check the material(s) used to construct the secondary containment system(s) (i.e., secondary piping, trench) provided for the product/waste piping. For single-wall piping systems, check "None."
464c. If you checked "Other" specify the type of secondary containment in the space provided.
464d. PIPING/TURBINE CONTAINMENT SUMP TYPE – Indicate the type of piping/turbine containment sump(s). Check "None" if not present.
464e-e1 VENT PRIMARY CONTAINMENT – Check the material(s) used to construct the primary (i.e., inner) vent piping. (Note: Address venting of the tank primary containment only.) Specify Other type of containment in the space provided.
464f-f1 VENT SECONDARY CONTAINMENT – Check the material(s) used to construct the secondary containment system(s) (e.g., secondary piping,) provided for the vent piping. For single-wall piping systems, check "None." (Note: Address venting of the tank primary containment only.) Specify Other type of containment in the space provided.
464g-g1 VR PRIMARY CONTAINMENT – Check the material(s) used to construct the primary (i.e., inner) vapor recovery piping. For tanks without vapor recovery piping (e.g., Diesel tanks), check "None." Specify Other type of containment in the space provided.
464h-h1 VR SECONDARY CONTAINMENT – Check the material(s) used to construct the secondary containment system(s) (e.g., secondary piping) provided for the vapor recovery piping. For single-wall piping systems, check "None." Specify Other type of containment in the space provided.
464i. VENT PIPING TRANSITION SUMP TYPE – Indicate type of transition sump(s). Check "None" if not present.
464j-j1 RISER PRIMARY CONTAINMENT – Check the material(s) used to construct the primary (i.e., inner) piping for all risers (not drop tubes) other than annular space risers (i.e., risers for filling or gauging of the primary tank). Specify Other type of containment in the space provided.
464k-k1 RISER SECONDARY CONTAINMENT – Check the material(s) used to construct secondary containment system(s) (i.e., secondary piping, sumps) provided for the riser piping. For risers without secondary containment, check "None." Specify Other type of containment in the space provided.
451a-c. FILL COMPONENTS INSTALLED – Check the appropriate boxes to show that spill containment, tank bottom protection, and fill containment sumps (if applicable) are installed.
469a. UDC CONSTRUCTION TYPE – Check the box to describe the type of dispenser containment system(s) (i.e., dispenser sumps or pans). If the system has no dispensers (e.g., standby generator tank system), check "No Dispensers." If the system has a dispenser, but no UDC, check "None".
469b. UDC CONSTRUCTION MATERIAL – Check the box to describe the materials used to construct the UDC.
469c. If you checked "Other" specify the construction material in the space provided.
448. STEEL COMPONENT PROTECTION – All systems contain some steel components. Check the appropriate box(es) to describe all corrosion protection methods used. "Isolation" means electrical isolation from soil, backfill, and groundwater. Examples include fiberglass cladding, non-metallic secondary containment systems which isolate steel components from the sub-surface environment, and insulating bushings.
APPLICANT SIGNATURE – The same person who signs the UST Operating Permit Application – Facility Information Form shall sign in the space provided. This signature certifies that the signer believes that all information submitted is true and accurate, and that the UST system is compatible with the hazardous substance stored.
470. DATE – Enter the date the form was signed.
471. APPLICANT NAME – Print or type the name of the person signing the form.
472. APPLICANT TITLE – Enter the title of the person signing the form.

UPCF UST-B – 1/2

Rev. 12/2007

HISTORY

1. Relocation and amendment of former SWRCB form B from Division 1, Subdivision 4, Appendix E, filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).
2. Amendment filed 12–18–2007; operative 1–17–2008 (Register 2007, No. 51).

Underground Storage Tank: Certification of Installation/Modification

UNIFIED PROGRAM CONSOLIDATED FORM
UNDERGROUND STORAGE TANK

CERTIFICATION OF INSTALLATION / MODIFICATION

(One form per project.)

I. FACILITY INFORMATION

FACILITY ID # *(Agency Use Only)* | | | – | | | | – | | | | | | | 1.

BUSINESS NAME (Same as FACILITY NAME or DBA – Doing Business As) 3.

BUSINESS SITE ADDRESS 103. | CITY 104.

II. INSTALLATION / MODIFICATION PROJECT DESCRIPTION

TYPE OF PROJECT (Check all that apply) 483a.

- ☐ 1. TANK INSTALLATION OR REPLACEMENT
- ☐ 2. PIPING INSTALLATION OR REPLACEMENT
- ☐ 3. SUMP INSTALLATION OR REPLACEMENT
- ☐ 4. UNDER DISPENSER CONTAINMENT INSTALLATION OR REPLACEMENT
- ☐ 5. OTHER

WORK AUTHORIZED UNDER PERMIT (Number or Date): 483b.

DESCRIPTION OF WORK BEING CERTIFIED: 483c

III. CONTRACTOR INFORMATION

NAME OF CONTRACTOR WHO PERFORMED INSTALLATION / MODIFICATION 482a

CONTRACTOR LICENSE # 482b. | ICC CERTIFICATION # 482c

IV. CERTIFICATION

I certify that the information provided herein is true, accurate, and that the following conditions have been satisfied:

- The installer has met the requirements set forth in 23 CCR §2715, subdivisions (g) and (h).
- The underground storage tank, any primary piping, and any secondary containment was installed according to applicable voluntary consensus standards and any manufacturer's written installation instructions.
- All work listed in the manufacturer's installation checklist has been completed.
- The installation has been inspected and approved by the local agency, or if required by the local agency, inspected and certified by a registered professional engineer having education and experience with underground storage tank system installations.

SIGNATURE OF TANK OWNER OR OWNER'S AGENT | DATE 484. | PHONE 487. ( )

CERTIFIER'S NAME (print) 485 | CERTIFIER'S TITLE: 486.

NAME OF CERTIFIER'S EMPLOYER (DBA) 488 | CERTIFIER'S RELATIONSHIP TO TANK OWNER 489

- ☐ 1. TANK OWNER ☐ 2. TANK OPERATOR
- ☐ 3. CONTRACTOR ☐ 4. PROPERTY OWNER
- ☐ 5. OTHER AUTHORIZED AGENT OF TANK OWNER

UPCF UST–C 12/2007

UST Certification of Installation / Modification Form Instructions

This Certification form must be submitted upon the completion of installation or upgrading of tanks and/or piping associated with a UST system. Installation or upgrading of multiple tank systems may be addressed on one form. The UST owner or an authorized representative of the owner must complete this form. (Note: Numbering of these instructions follows the UPCF data element numbers on the Certification form.)

1. FACILITY ID NUMBER – This space is for agency use only.
3. BUSINESS NAME – Enter the complete Facility Name.
103. BUSINESS SITE ADDRESS – Enter the street address of the facility, including building number, if applicable. This address must be the physical location of the facility. Post office box numbers are not acceptable.
104. CITY – Enter the city or unincorporated area in which the facility is located.
482a. NAME OF CONTRACTOR WHO PERFORMED INSTALLATION / MODIFICATION – Enter the name of the contractor who performed the work as registered with the Contractors State License Board (CSLB).
482b. CONTRACTOR LICENSE # – For the contractor named above, enter the license number assigned by the Contractors State License Board (license information is available online at www.cslb.ca.gov).
482c. ICC CERTIFICATION # – Enter the International Code Council (ICC) "UST Installation/Retrofitting" certification number possessed by the contractor.
483a. TYPE OF PROJECT – Check the appropriate box(es) to indicate the type of work performed. Address each system component individually (i.e., for installation of a complete motor vehicle fueling UST system, check boxes 1 through 4).
483b. WORK AUTHORIZED UNDER PERMIT (Number or Date) – Enter the number of the permit issued by the local agency, or if no permit number, the date the permit or project approval was issued for the work being certified.
483c.. DESCRIPTION OF WORK BEING CERTIFIED – In the space provided, briefly describe the work performed. Include the number and type of UST systems installed or upgraded and the scope of work (e.g., "Installation of piping sumps and under dispenser containment, and replacement of product and vapor recovery piping associated with one 12,000 gallon regular unleaded and one 8,000 gallon premium unleaded motor vehicle fuel tank.").

SIGNATURE OF TANK OWNER OR OWNER'S AGENT – The tank owner or an authorized agent of the owner shall sign in the space provided. This signature certifies that the signer believes that all the information submitted is true and accurate.

484. DATE CERTIFIED – Enter the date the form was signed.
485. CERTIFIER'S NAME – Enter the full printed name of the person signing the form.
486. CERTIFIER'S TITLE – Enter the title of the person signing the form.
487. PHONE – Enter the phone number of the person signing the certification. Include the area code and any extension number.
488. NAME OF CERTIFIER'S EMPLOYER – Enter the name (DBA) of the employer of the person signing the form. If the tank owner is an individual, and the owner signs the Certification, note "N/A" (Not Applicable) in this space.
489. CERTIFIER'S RELATIONSHIP TO TANK OWNER – Check the appropriate box to indicate the nature of the relationship between the person signing the form and the tank owner.

UPCF UST-C 12/2007

HISTORY

1. Relocation and amendment of former SWRCB form C from Division 1, Subdivision 4, Appendix E, filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).
2. Amendment filed 12–18–2007; operative 1–17–2008 (Register 2007, No. 51).

Underground Storage Tank: Monitoring Plan

UNIFIED PROGRAM CONSOLIDATED FORM
UNDERGROUND STORAGE TANK
MONITORING PLAN – (Page 1 of 2)

TYPE OF ACTION ☐ 1. NEW PLAN ☐ 2. CHANGE OF INFORMATION 490-1

PLAN TYPE ☐ 1. MONITORING IS IDENTICAL FOR ALL USTs AT THIS FACILITY 490-2
(Check one item only) ☐ 2. THIS PLAN COVERS ONLY THE FOLLOWING UST SYSTEM(S):

I. FACILITY INFORMATION

FACILITY ID # *(Agency Use Only)* ☐☐☐-☐☐☐-☐☐☐☐☐ 2

BUSINESS NAME (Same as FACILITY NAME)

BUSINESS SITE ADDRESS 103. | CITY 104

II. EQUIPMENT TESTING AND PREVENTIVE MAINTENANCE

Testing, preventive maintenance, and calibration of monitoring equipment (e.g., sensors, probes, line leak detectors, etc.) must be performed at the frequency specified by the equipment manufacturers' instructions, or annually, whichever is more frequent, and that such work must be performed by qualified personnel (23 CCR §2632, 2634, 2638, 2641)

MONITORING EQUIPMENT IS SERVICED ☐ 1. ANNUALLY ☐ 99. OTHER (Specify): 490-3a 490-3b

III. MONITORING LOCATIONS

☐ 1. NEW SITE PLOT PLAN/MAP SUBMITTED WITH THIS PLAN. ☐ 2. SITE PLOT PLAN/MAP PREVIOUSLY SUBMITTED. (23 CCR §2632. 2634) 490-4

IV. TANK MONITORING IS PERFORMED USING THE FOLLOWING METHOD(S):

☐ 1. CONTINUOUS ELECTRONIC TANK MONITORING OF ANNULAR (INTERSTITIAL) SPACE(S) OR SECONDARY CONTAINMENT VAULT(S) WITH AUDIBLE AND VISUAL ALARMS. (23 CCR §2632, 2634) 490-5
SECONDARY CONTAINMENT IS: ☐ a. DRY ☐ b. LIQUID FILLED ☐ c. PRESSURIZED ☐ d. UNDER VACUUM 490-6
PANEL MANUFACTURER: 490-7 | MODEL #: 490-8
LEAK SENSOR MANUFACTURER: 490-9 | MODEL #(S): 490-10

☐ 2. AUTOMATIC TANK GAUGING (ATG) SYSTEM USED TO MONITOR SINGLE WALL TANK(S). (23 CCR §2643) 490-11
PANEL MANUFACTURER: 490-12 | MODEL #: 490-13
IN-TANK PROBE MANUFACTURER: 490-14 | MODEL #(S): 490-15
LEAK TEST FREQUENCY: ☐ a. CONTINUOUS ☐ b. DAILY/NIGHTLY ☐ c. WEEKLY 490-16
☐ d. MONTHLY ☐ e. OTHER (Specify): 490-17
PROGRAMMED TESTS: ☐ a. 0.1 g.p.h. ☐ b. 0.2 g.p.h. ☐ c. OTHER (Specify): 490-18 490-19

☐ 3. MONTHLY STATISTICAL INVENTORY RECONCILIATION (23 CCR §2646.1): 490-20

☐ 4. WEEKLY MANUAL TANK GAUGING (MTG) (23 CCR §2645). TESTING PERIOD: ☐ a. 36 HOURS ☐ b. 60 HOURS 490-21 490-22

☐ 5. TANK INTEGRITY TESTING (23 CCR §2643.1): 490-23
TEST FREQUENCY: ☐ a. ANNUALLY ☐ b. BIENNIALLY ☐ c. OTHER (Specify): 490-24 490-25

☐ 99. OTHER (Specify): 490-26 490-27

V. PIPE MONITORING IS PERFORMED USING THE FOLLOWING METHOD(S) (Check all that apply)

☐ 1. CONTINUOUS MONITORING OF PIPE/ PIPING SUMP(S) AND OTHER SECONDARY CONTAINMENT WITH AUDIBLE AND VISUAL ALARMS. (23 CCR §2636) 490-28
SECONDARY CONTAINMENT IS: ☐a. DRY ☐b. LIQUID FILLED ☐c. PRESSURIZED ☐d. UNDER VACUUM 490-29
PANEL MANUFACTURER: 490-30 | MODEL #: 490-31
LEAK SENSOR MANUFACTURER: 490-32 | MODEL #(S): 490-33
PIPING LEAK ALARM TRIGGERS AUTOMATIC PUMP (i.e., TURBINE) SHUTDOWN. ☐ a. YES ☐ b. NO 490-34
FAILURE/DISCONNECTION OF THE MONITORING SYSTEM TRIGGERS AUTOMATIC PUMP SHUTDOWN. ☐ a. YES ☐ b. NO 490-35

☐ 2. MECHANICAL LINE LEAK DETECTOR (MLLD) THAT ROUTINELY PERFORMS 3.0 g.p.h. LEAK TESTS AND RESTRICTS OR SHUTS OFF PRODUCT FLOW WHEN A LEAK IS DETECTED (23 CCR §2636) 490-36
MLLD MANUFACTURER(S). 490-37 | MODEL #(S): 490-38

☐ 3. ELECTRONIC LINE LEAK DETECTOR (ELLD) THAT ROUTINELY PERFORMS 3.0 g.p.h. LEAK TESTS (23 CCR §2636) 490-39
ELLD MANUFACTURER(S) 490-40 | MODEL #(S): 490-41
PROGRAMMED IN LINE LEAK TEST: ☐ 1. MINIMUM MONTHLY 0.2 g.p.h. ☐ 2. MINIMUM ANNUAL 0.1 g.p.h. 490-42
ELLD DETECTION OF A PIPING LEAK TRIGGERS AUTOMATIC PUMP SHUTDOWN. ☐ a. YES ☐ b. NO 490-43
ELLD FAILURE/DISCONNECTION TRIGGERS AUTOMATIC PUMP SHUTDOWN. ☐ a. YES ☐ b. NO 490-44

☐ 4. PIPE INTEGRITY TESTING 490-45
TEST FREQUENCY ☐ a. ANNUALLY ☐ b. EVERY 3 YEARS ☐ c. OTHER (Specify) 490-46 490-47

☐ 5. VISUAL PIPE MONITORING. 490-48
FREQUENCY ☐ a. DAILY ☐ b. WEEKLY ☐ c. MIN. MONTHLY & EACH TIME SYSTEM OPERATED* 490-49
* Allowed for monitoring of unburied emergency generator fuel piping only per HSC §25281.5(b)(3)

☐ 6. SUCTION PIPING MEETS EXEMPTION CRITERIA [23 CCR §2636(a)(3)]. 490-50

☐ 7. NO REGULATED PIPING PER HEALTH AND SAFETY CODE, DIVISION 20, CHAPTER 6.7 IS CONNECTED TO THE TANK SYSTEM 490-51

☐ 99. OTHER (Specify) 490-52 490-53

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UST Monitoring Plan – Page 1 Instructions

Complete a separate UST Monitoring Plan for each UST monitoring system at the facility. This form must be submitted with your initial UST Operating Permit Application and within 30 days of changes in the information it contains. Please note that your local agency may require you to obtain approval prior to installing or modifying monitoring equipment. (Note: Numbering of these instructions follows the data element numbers on the form.)

490-1. TYPE OF ACTION – Check the appropriate box to indicate why this plan is being submitted.

490-2. PLAN TYPE – Check the appropriate box to indicate whether this plan covers all, or merely some, of the USTs at the facility. If the plan covers only some of the tanks, identify those tanks in the space provided [e.g., by using the Tank ID #(s) in item 432 of the UST Operating Permit Application – Tank Information Form(s)].

1. FACILITY ID NUMBER – This space is for agency use only.

3. BUSINESS NAME – Enter the complete Facility Name.

103. BUSINESS SITE ADDRESS – Enter the street address where the facility is located, including building number, if applicable. Post office box numbers are not acceptable This information must provide a means to locate the facility geographically.

104. CITY – Enter the city or unincorporated area in which the facility is located.

490-3a MONITORING EQUIPMENT IS SERVICED – Check the appropriate box to specify the frequency of monitoring equipment testing/certification.

490-3b Specify Other frequency for monitoring equipment servicing.

490-4 SITE PLAN - Indicate if a site plan/map is submitted with this monitoring plan or if it was submitted previously and is current for the facility. Monitoring plans must include a Site Plot Plan/Map showing the tank and piping layouts and the locations where monitoring is performed (i.e., location of sensors, probes, line leak detectors, monitoring system control panel, etc.).

490-5 IV-1 CONTINUOUS ELECTRONIC MONITORING-Indicate if this monitoring method is being used to monitor the tanks.

490-6 SECONDARY CONTAINMENT– If IV-1 is checked, check the appropriate box to describe the environment inside the tank secondary containment.

490-7 PANEL MANUFACTURER – – If IV-1 is checked, enter the name of the manufacturer of the monitoring system control panel (console).

490-8 MODEL # – If IV-1 is checked, enter the model number for the monitoring system control panel.

490-9 LEAK SENSOR MANUFACTURER — If IV-1 is checked, enter the name of the manufacturer of the sensor(s). If additional space is needed, use Section X.

490-10 MODEL #(S) – – If IV-1 is checked, enter the model number for each type of sensor installed. If additional space is needed, use Section X.

490-11 IV-2 AUTOMATIC TANK GAUGING-Indicate if this method is used for monitoring the UST's.

490-12 PANEL MANUFACTURER – If IV-2 is checked, enter the name of the manufacturer of the monitoring system control panel (console).

490-13 MODEL # – If IV-2 is checked, enter the model number for the monitoring system control panel.

490-14 IN-TANK PROBE MANUFACTURER – If IV-2 is checked, enter the name of the manufacturer of the probe(s).

490-15 MODEL #(S) – If IV-2 is checked, enter the model number for each type of in-tank probe installed. If additional space is needed, use Section X.

490-16. LEAK TEST FREQUENCY – If IV-2 is checked, check the appropriate box to describe the in-tank leak test frequency.

490-17. SPECIFY – If 490-16e is checked, enter the frequency of programmed leak tests.

490-18. PROGRAMMED TESTS – If IV-2 is checked, check the appropriate box to describe the tests programmed into the ATG system.

490-19. SPECIFY – If 490-18c is checked, enter the frequency of in-tank leak testing.

490-20. IV-3 INVENTORY RECONCILIATION – Check the box if statistical inventory reconciliation is performed .

490-21. IV-4 WEEKLY MANUAL TANK GAUGING. Indicate if this method is used to monitor the tanks.

490-22. TESTING PERIOD – If IV-4 is checked, check the appropriate box to describe the MTG testing period.

490-23. IV-5 TANK INTEGRITY TESTING: Indicate if this method is used to monitor the tanks.

490-24. TEST FREQUENCY – If IV-5 is checked, check the appropriate box to describe the frequency of tank integrity testing.

490-25. OTHER: If 490-24c is checked, specify other test frequency.

490-26. IV-99 OTHER: Indicate if monitoring of the tanks occurs that is not indicated in any other category.

490-27. If IV-99 is checked, enter a brief description of the other tank monitoring method(s) used (e.g., vadose zone monitoring per 23 CCR §2647, groundwater monitoring per 23CCR §2648). Include the monitoring frequency (e.g., Continuous, Weekly). If additional space is needed, use Section X.

490-28. V-1 CONTINUOUS MONITORING OF PIPE/PIPING SUMP(S) AND OTHER SECONDARY CONTAINMENT WITH AUDIBLE AND VISUAL ALARMS: Indicate if this is the monitoring method used for the piping.

490-29. SECONDARY CONTAINMENT: If V-1 is checked, Check the appropriate box to describe the environment inside piping secondary containment.

490-30. PANEL MANUFACTURER – If V-1 is checked, enter the name of the manufacturer of the monitoring system control panel (console).

490-31. MODEL # – If V-1 is checked, enter the model number for the monitoring system control panel.

490-32. LEAK SENSOR MANUFACTURER – If V-1 is checked, enter the name of the manufacturer of the sensor(s).

490-33. MODEL #(S) – If V-1 is checked, enter the model number for each type of sensor installed. If additional space is needed, use Section X.

490-34. PIPING LEAK ALARM T RIGGERS AUTOMATIC PUMP SHUTDOWN – If V-1 is checked, check Yes or No.

490-35. FAILURE/DISCONNECTION OF THE MONITORING SYSTEM TRIGGERS AUTOMATIC PUMP SHUTDOWN – If V-1 is checked, check Yes or No.

490-36. V-2 PIPE MECHANICAL LINE LEAK DETECTORS PERFORM 3 GPH LEAK TESTS: Indicate if this monitoring method is used to monitor the pipelines.

490-37. MLLD MANUFACTURER(S) – If V-2 is checked, enter the name(s) of the manufacturer(s) of the mechanical line leak detector(s). If additional space is needed, use Section X.

490-38. MODEL #(s) - If V-2 is checked, Enter the model number for each type of mechanical line leak detector installed. If additional space is needed, use Section X.

490-39. V-3 PIPE ELECTRONIC LINE LEAK DETECTORS: Indicate if this monitoring method is used to monitor the pipelines.

490-40. ELLD MANUFACTURER – If V-3 is checked, Enter the name of the manufacturer of the electronic line leak detector(s).

490-41. MODEL #(S)n - If V-3 is checked, enter the model number for each type of electronic line leak detector installed. If additional space is needed, use Section X.

490-42. PROGRAMMED LINE INTEGRITY TESTS –If V-3 is checked, check the appropriate box to describe the type of tests programmed into the monitoring system.

490-43. ELLD DETECTION OF A PIPING LEAK ALARM TRIGGERS PUMP SHUTDOWN – If V-1 is checked, check Yes or No.

490-44. ELLD DETECTION OF A PIPING LEAK FAILURE/DISCONNECTION TRIGGERS PUMP SHUTDOWN – If V-1 is checked, check Yes or No.

490-45. V-4 PIPE INTEGRITY TESTING - Indicate if this monitoring method is used to monitor the pipelines.

490-46. TEST FREQUENCY – If V-4 is checked, check the appropriate box to describe the frequency of pipe integrity testing.

490-47. SPECIFY – If 490-46-99 is checked, enter the frequency of pipe integrity testing.

490-48. V-5 VISUAL PIPE MONITORING - Indicate if this monitoring method is used to monitor the pipelines.

490-49. If V-5 is checked, check the appropriate box to describe the frequency of visual monitoring.

490-50. SUCTION PIPING MEETS EXEMPTION CRITERIA - Indicate if this monitoring method is used to monitor the pipelines.

490-51. NO REGULATED PIPING PER HEALTH AND SAFETY CODE, DIVISION 20, CHAPTER 6.7 IS CONNECTED TO THE TANK SYSTEM - Check this box if no piping in the tank system is regulated under the UST law, or there is no piping.

490-52. V-99 OTHER - Indicate if another method is used for pipeline monitoring.

490-53. SPECIFY – Enter a brief description of the other line monitoring method(s) used. If additional space is needed, see Section X. Be sure to clearly describe monitoring method(s) and frequency.

This monitoring plan must include a Site Plan showing the general tank and piping layouts and the locations where monitoring is performed (i.e., location of each sensor, line leak detector, monitoring system control panel, etc.). If you already have a diagram (e.g., current UST Monitoring Site Plan from a Monitoring System Certification form, Hazardous Materials Business Plan map, etc.) that shows all required information, include it with this plan.

UNIFIED PROGRAM CONSOLIDATED FORM
UNDERGROUND STORAGE TANK
MONITORING PLAN (Page 2 of 2)

VI. UNDER DISPENSER CONTAINMENT (UDC) MONITORING

1. UDC MONITORING IS PERFORMED USING THE FOLLOWING METHOD 490-54a 490-54b

☐ 1. CONTINUOUS ELECTRONIC MONITORING ☐ 2. FLOAT AND CHAIN ASSEMBLY ☐ 3. ELECTRONIC STAND-ALONE
☐ 4. NO DISPENSERS ☐ 99. OTHER (Specify):

PANEL MANUFACTURER:	490-55	MODEL #:	490-56
LEAK SENSOR MANUFACTURER:	490-57	MODEL #(S):	490-58

DETECTION OF A LEAK INTO THE UDC TRIGGERS AUDIBLE AND VISUAL ALARMS	☐ a. YES	☐ b. NO	490-59
UDC LEAK ALARM TRIGGERS AUTOMATIC PUMP SHUTDOWN	☐ a. YES	☐ b. NO	490-60
FAILURE / DISCONNECTION OF UDC MONITORING SYSTEM TRIGGERS AUTOMATIC PUMP SHUTDOWN.	☐ a. YES	☐ b. NO	490-61
UDC MONITORING STOPS THE FLOW OF PRODUCT AT THE DISPENSER.	☐ a. YES	☐ b. NO	490-62

2. UDC CONSTRUCTION IS ☐1. SINGLE-WALLED ☐ 2. DOUBLE-WALLED 490-63

IF DOUBLE WALLED: 490-64a
UDC INTERSTITIAL SPACE IS MONITORED BY: ☐ 1. LIQUID ☐ 2. PRESSURE ☐ 3. VACUUM

A LEAK WITHIN THE SECONDARY CONTAINMENT OF THE UDC TRIGGERS AUDIBLE AND VISUAL ALARMS ☐ a. YES ☐ b. NO 490-64b

VII. PERIODIC SYSTEM TESTING

☐ 1. **ELD TESTING**: THIS FACILITY HAS BEEN NOTIFIED BY THE STATE WATER RESOURCES CONTROL BOARD THAT ENHANCED LEAK DETECTION (ELD) MUST BE PERFORMED. PERIODIC ELD IS PERFORMED EVERY 36 MONTHS AS REQUIRED. (23 CCR §2644.1) 490-65

☐ 2. **SECONDARY CONTAINMENT COMPONENTS ARE TESTED EVERY 36 MONTHS.** 490-66

☐ 3. **SPILL BUCKETS ARE TESTED ANNUALLY.** 490-67

VIII. RECORDKEEPING

The following monitoring/maintenance records are kept for this facility:

☐ Alarm logs 490-68a ☐ Visual Inspection Records 490-68b ☐ Tank integrity testing results 490-68c
☐ SIR testing results (and supporting documentation records). 490-68d ☐ Tank gauging results (and supporting documentation records). 490-68e
☐ ATG Testing results (and supporting documentation records). 490-68f ☐ Corrosion Protection 60-day logs 490-68g
☐ Equipment maintenance and calibration records. 490-68h

IX. TRAINING

☐ Personnel with UST monitoring responsibilities are familiar with all of the following documents relevant to their job duties. 490-69a

REFERENCE DOCUMENTS MAINTAINED AT FACILITY (Check all that apply)

☐ THIS UNDERGROUND STORAGE TANK MONITORING PLAN (Required) 490-69b
☐ OPERATING MANUALS FOR ELECTRONIC MONITORING EQUIPMENT (Required) 490-69c
☐ CALIFORNIA UNDERGROUND STORAGE TANK REGULATIONS 490-69d
☐ CALIFORNIA UNDERGROUND STORAGE TANK LAW 490-69e
☐ STATE WATER RESOURCES CONTROL BOARD (SWRCB) PUBLICATION: "HANDBOOK FOR TANK OWNERS - MANUAL AND STATISTICAL INVENTORY RECONCILIATION" 490-69f
☐ SWRCB PUBLICATION: "UNDERSTANDING AUTOMATIC TANK GAUGING SYSTEMS" 490-69g
☐ OTHER (Specify): M69h, M69i

☐ This facility has a "Designated UST Operator" who has passed the California UST System Operator Exam administered by the International Code Council (ICC). The "Designated UST Operator" will train facility employees in the proper operation and maintenance of the UST systems annually, and within 30 days of hire. This training will include, but is not limited to, the following:

- Operation of the UST systems in a manner consistent with the facility's best management practices
- The facility employee's role with regard to the monitoring equipment as specified in this UST Monitoring Plan
- The facility employee's role with regard to spills and overfills as specified in the UST Response Plan
- Names of contact person(s) for emergencies and monitoring alarms. 490-70

X. COMMENTS/ADDITIONAL INFORMATION

Provide additional comments here or indicate how many pages with additional information on specific monitoring procedures are attached to this plan. 490-71

XI. PERSONNEL RESPONSIBILITIES

The UST Owner/Operator is responsible for ensuring that: 1) the daily/routine UST monitoring activities and maintenance of UST leak detection equipment covered by this plan occurs, 2) all conditions that indicate a possible release are investigated, and 3) all monitoring records are maintained properly.
The following person(s) are responsible for performing the monitoring and equipment maintenance:

NAME 490-72 TITLE 490-73

NAME 490-74 TITLE 490-75

The Designated Operator shall perform a monthly visual inspection of the facility, provide a report to the owner/operator, and inform the owner/operator of any conditions that need follow-up action.

XII. OWNER/OPERATOR SIGNATURE

CERTIFICATION: I certify that the information provided herein is true and accurate to the best of my knowledge.

APPLICANT SIGNATURE 490-76 REPRESENTING: ☐ 1. Tank Owner/Operator ☐ 2. Facility Owner/Operator ☐ 3. Authorized Representative of Owner	DATE: 490-77
APPLICANT NAME (print): 490-78	APPLICANT TITLE: 490-79

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(Agency Use Only) This plan has been reviewed and: ☐ Approved ☐ Approved With Conditions

Local Agency Signature: _____ Date: _____
Comments or Special Conditions:

UST Monitoring Plan – Page 2 Instructions

Complete a separate UST Monitoring Plan for each UST monitoring system at the facility. This form must be submitted with your initial UST Operating Permit Application and within 30 days of changes in the information it contains. Please note that your local agency may require you to obtain approval prior to installing or modifying monitoring equipment. (Note: Numbering of these instructions follows the data element numbers on the form.)

490-54a. MONITORING OF THE UNDER DISPENSER CONTAINMENT- Indicate the method used for UDC monitoring.
490-54b. SPECIFY-If 99 "Other" is checked, describe other method used.
If VI-1-1, VI-1-2 or VI-1-3 or VI-1-99 is checked, complete 490-55 to 490-64b.
490-55. PANEL MANUFACTURER –Enter the name of the manufacturer of the monitoring system control panel (console). If there is no control panel (e.g., only an electrical relay box is installed) leave this space blank.
490-56. MODEL # - Enter the model number for the monitoring system control panel (console). If there is no control panel (e.g., only an electrical relay box is installed) leave this
space blank.
490-57. LEAK SENSOR MANUFACTURER – Enter the name of the manufacturer of the sensor(s).
490-58. MODEL #(S) – Enter the model number of the sensor(s) installed. If additional space is needed, use Section X.
490-59. DETECTION OF A LEAK INTO THE UDC TRIGGERS AUDIBLE AND VISUAL ALARMS. Indicate Yes or No
490-60. UDC LEAK ALARM TRIGGERS PUMP SHUTDOWN - Indicate Yes or No
490-61. FAILURE/DISCONNECTION OF UDC MONITORING SYSTEM TRIGGERS AUTOMATIC PUMP SHUTDOWN - Indicate Yes or No
490-62. UDC MONITORING STOPS THE FLOW OF PRODUCT AT THE DISPENSER - Indicate Yes or No.
490-63. UDC CONSTRUCTION - Indicate if the construction of the UDC is single-walled, or double-walled.
490-64a. DOUBLE-WALLED INTERSTITIAL SPACE MONITORING - Indicate what is used to monitor the interstitial space.
490-64b. LEAK WITHIN THE SECONDARY CONTAIMENT OF UDC TRIGGERS AUDIBLE AND VISUAL ALARMS - Indicate Yes or No
490-65. VII-1 ELD TESTING - Check the box if you have been notified by the State Water Resources Control Board (SWRCB) that the UST(s) covered by this plan is/are subject to Enhanced Leak Detection Requirements (i.e., UST has any single-wall component and is located within 1,000 feet of a public drinking water well).
490-66. TESTING OF SECONDARY CONTAINMENT COMPONENTS EVERY 36 MONTHS - Check the box if you have secondary containment that requires testing.
490-67. SPILL BUCKET TESTING - Check the box if you have spill buckets.
490-68a-h. VIII RECORDKEEPING -Indicate which monitoring and equipment maintenance records are maintained for this facility.
490-69a IX TRAINING STATEMENT - Check the box to verify that the statement is true.
REFERENCE DOCUMENTS MAINTAINED AT FACILITY – Check the appropriate boxes to describe reference documents maintained at the facility. Note that the first two items on the list must be kept at the facility.
490-69b. MONITORING PLAN: Indicate that this plan is kept as a reference document.
490-69c. OPERATING MANUALS FOR ELECTRONIC EQUIPMENT: Indicate that this plan is kept as a reference document.
490-69d. CA UST REGULATIONS - Indicate that this is kept as a reference document.
490-69e. CA UST LAW - Indicate that this is kept as a reference document.
490-69f. STATE WATER RESOURCES CONTROL BOARD (SWRCB) PUBLICATION - "HANDBOOK FOR TANK OWNERS - MANUAL AND STATISTICAL INVENTORY RECONCILIATION - Indicate that this is kept as a reference document.
490-69g. SWRCB PUBLICATION: "UNDERSTANDING AUTOMATIC TANK GAUGING SYSTEMS": Indicate that this is kept as a reference document.
490-69h. OTHER - Indicate that other reference documents are kept.
490-69i. SPECIFY-If "OTHER" is checked, enter a brief description of the other document(s) maintained at the facility. If additional space is needed, see Section X.
490-70. DESIGNATED OPERATOR TRAINING - Check this box to verify that this statement is true.
490-71. COMMENTS/ADDITIONAL INFORMATION – Make additional comments or you may attach and identify the number of additional pages of information to describe any additional UST system monitoring-related information (e.g., additional information required by your local agency). Attach any monitoring logs that you will be using for the monitoring of your tank system.
490-72. NAME – Enter the name of the person who routinely conducts the monitoring and equipment maintenance under this plan.
490-73. TITLE - Enter the title of the person.
490-74. NAME – Enter the name of the second person, if applicable, who routinely conducts the monitoring and equipment maintenance under this plan.
490-75. TITLE - Enter the title of the second person.
OWNER/OPERATOR SIGNATURE – The tank owner/operator, facility owner/operator, or an authorized representative of the owner shall sign in the space provided. This signature certifies that the signer believes that all information submitted is true, accurate, and complete, and that the training program specified in Section IX has been implemented.
490-76. REPRESENTING – Check the appropriate box to indicate whether the signer is the UST owner/operator, the UST facility owner/operator, or an authorized representative of the owner.
490-77. DATE – Enter the date the plan was signed.
490-78. APPLICANT NAME – Print or type the name of the person signing the plan.
490-79. APPLICANT TITLE – Enter the title of the person signing the plan.

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HISTORY
1. New form filed 12–18–2007; operative 1–17–2008 (Register 2007, No. 51).

UNIFIED PROGRAM CONSOLIDATED FORM

HAZARDOUS WASTE

RECYCLABLE MATERIALS REPORT – PAGE 1

FOR EXCLUDED OR EXEMPTED MATERIALS ONLY

Page ___ of ___

FACILITY ID# 1	EPA ID # 2
BUSINESS NAME (Same as FACILITY NAME or DBA – Doing Business As) 3	
DATES OF REPORTING PERIOD — BEGINNING DATE 500	ENDING DATE 501

I. TYPE OF RECYCLING ACTIVITIES

If yes, please follow instructions.

1. Do you recycle more than 100 kg/month of excluded or exempted recyclable material at the same location at which the material was generated (onsite recycling)?	502 ☐ YES ☐ NO	✓ If YES, you are both the generator and recycler. Complete one Recyclable Materials Report. Do not complete Parts II and V.
2. Do you recycle more than 100 kg/month of non-manifested, excluded recyclable materials received from an offisite location (offsite recycling)?	503 ☐ YES ☐ NO	✓ If YES, you are an offsite recycler but not the generator. Complete a Recyclable Materials Report for each generator that sends you materials.

–Businesses that only send recyclable materials to an offsite recyclers are not required to file this report. –

II. OFFSITE GENERATOR OF RECYCLABLE MATERIAL

Only complete when the generator is different from the recycler.

OFFSITE GENERATOR OF RECYCLABLE MATERIAL 504	OFFSITE GENERATOR EPA ID# 505	
STREET ADDRESS 506		PHONE 507
CITY 508	STATE 509	ZIP CODE 510
MAILING ADDRESS (IF DIFFERENT) 511		
CITY 512	STATE 513	ZIP CODE 514

III. CERTIFICATION SECTION

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete.

SIGNATURE OF CERTIFIER	DATE 515	NAME OF DOCUMENT PREPARER 516
NAME OF SIGNER (print) 517	TITLE OF SIGNER 518	

UPCF (1/99 revised)

[The next page is 875.]

Recyclable Materials Biennial Report Page 1

Complete this report if you recycle more than 100 kilograms per month of recyclable material under a claim that the material qualifies for an exclusion or exemption pursuant to HSC §25143.2. Facilities that recycle at the same location at which the material was generated (onsite recyclers) and facilities that recycle materials generated at an offsite location (offsite recyclers) must complete a report. Persons who send materials to another location to be recycled, and who do not recycle material onsite under a claim to an exclusion or exemption provided in HSC § 25143.2, need not complete a report.

Offsite recyclers must complete one report for **each** generator from whom they receive recyclable materials. Complete a **separate** Page 2 of the Report for **each** recyclable material. When this report is submitted, provide a copy of the completed report to the generator of the material recycled.

Refer to HSC §25143.10 for reporting requirements for recyclers.

(Note: the numbering of the instructions follows the data element numbers that are on the UPCF pages. These data element numbers are used for electronic submission and are the same as the numbering used in 27 CCR, Appendix C, the Business Section of the Unified Program Data Dictionary.)

Please number all pages of your submittal. This helps your CUPA or local agency identify whether the submittal is complete and if any pages are separated.

1. **FACILITY ID NUMBER** - Leave this blank. This number is assigned by the CUPA. This is the unique number that identifies your facility.
2. **EPA ID NUMBER** - Enter your facility's 12-character U.S. Environmental Protection Agency (U.S. EPA) or California Identification number. For facilities in California, the number usually starts with the letters "CA". If you do not have a number contact the DTSC Telephone Information Center at (916) 324-1781, (800) - 61-TOXIC or (800) 61-86942, to obtain one.
3. **BUSINESS NAME** - Enter the full legal name of the business.

500. **BEGINNING DATE OF REPORTING PERIOD** - Enter the beginning date of the reporting period for this report. This report is for two calendar years and is due on July 1 of every even-numbered year.
501. **ENDING DATE OF REPORTING PERIOD** - Enter the ending date of the reporting period for this report.
502. **ONSITE RECYCLING** - Check "Yes" if the recycling facility recycles more than 100 kilograms per month of recyclable material generated onsite under a claim that the material qualifies for an exclusion or exemption pursuant to HSC §25143.2. Check "No" if the recycling facility does not recycle onsite.
503. **OFFSITE RECYCLING** - Check "Yes" if the recycling facility recycles more than 100 kilograms per month of recyclable material under a claim that the material qualifies for an exclusion, or exemption pursuant to HSC §25143.2, and that material was received from one or more offsite locations. Check "No" if the recycling facility does not recycle material generated offsite.
504. **OFFSITE GENERATOR NAME** - If the generator is different from the recycler, enter the name of the person that generated the recyclable material. Complete a separate report for each generator.
505. **OFFSITE GENERATOR EPA ID NUMBER** - Enter the generator's 12-character U.S. Environmental Protection Agency (EPA) identification number. If the generator needs but does not yet have an identification number, the owner or operator can contact the Telephone Information Center at (916) 324-1781.

506. **OFFSITE GENERATOR STREET ADDRESS** 507. **OFFSITE GENERATOR PHONE NUMBER** 508. **OFFSITE GENERATOR CITY** 509. **OFFSITE GENERATOR STATE** 510. **OFFSITE GENERATOR ZIP CODE**	Complete items **506 – 510** for each generator of recyclable material.

511. **OFFSITE GENERATOR MAILING ADDRESS** 512. **CITY FOR MAILING ADDRESS** 513. **STATE FOR MAILING ADDRESS** 514. **ZIP CODE FOR MAILING ADDRESS**	Complete items **511 – 514** if the mailing address for the offsite generator is different from the street address.

SIGNATURE OF CERTIFIER - The business owner/operator of the recycling facility shall sign in the space provided. This signature certifies that the signer believes that the information submitted is true, accurate, and complete.

515. **DATE CERTIFIED** - Enter the date that the certification was signed.
516. **NAME OF DOCUMENT PREPARER** - Enter the name of the person who prepared the report.
517. **CERTIFIER NAME** - Enter the full printed name of the certifier.
518. **CERTIFIER TITLE** - Enter the title of the person signing the report.

UPCF (1/99 revised)

UNIFIED PROGRAM CONSOLIDATED FORM

HAZARDOUS WASTE

RECYCLABLE MATERIALS REPORT – PAGE 2

FOR EXCLUDED OR EXEMPTED MATERIALS ONLY

(one description per material recycled, attach additional pages, if needed)

TOTAL NUMBER OF RECYCLABLE MATERIALS 519 Page ___ of ___

FACILITY ID# 1 | BUSINESS NAME (Same as FACILITY NAME or DBA – Doing Business As) 3

IV. RECYCLABLE MATERIAL INFORMATION

A. DESCRIPTION

RECYCLABLE MATERIAL NUMBER 520	COMMON NAME OF RECYCLABLE MATERIAL 521	QUANTITY DURING TWO YEAR REPORTING PERIOD 522	UNITS ☐ a. Gallons ☐ c. Tons ☐ b. Pounds ☐ d. Kilograms 523

RECYCLABLE MATERIAL DESCRIPTION 524

RECYCLING PROCESS AND BENEFICIAL USE OF RECYCLABLE MATERIAL 525

AUTHORIZING PROVISION OF HSC SECTION 25143.2 526	BASIS FOR CLAIM TO AN EXCLUSION OR EXEMPTION 527

B. PRODUCT AND CONSTITUENT INFORMATION: OFFSITE ONLY

Only complete if recyclable material was used to make or substitute for a product and operating pursuant to HSC Section 25143.2(b) or (d)(5) or (6).

HAZARDOUS CONSTITUENT	HAZARDOUS CONSTITUENT In Recyclable Material	HAZARDOUS CONSTITUENT In Final Product	LIST FINAL PRODUCT(S) MADE FROM THIS RECYCLABLE MATERIAL AND BENEFICIAL USE OF FINAL PRODUCT(S)
528	529 UNITS 530 ☐ a percent ☐ b ppm	531 UNITS 532 ☐ a percent ☐ b ppm	533
534	535 UNITS 536 ☐ a percent ☐ b ppm	537 UNITS 538 ☐ a percent ☐ b ppm	539
540	541 UNITS 542 ☐ a percent ☐ b ppm	543 UNITS 544 ☐ a percent ☐ b ppm	545
546	547 UNITS 548 ☐ a percent ☐ b ppm	549 UNITS 550 ☐ a percent ☐ b ppm	551

If more than four constituents are recycled, attach additional sheets using this same format.

V. DOCUMENTATION OF KNOWN MARKET (Offsite recyclers only)

☐ DOCUMENTATION IS ATTACHED: Offsite recyclers must attach documentation that there was a known market for disposition of the recyclable material and any products manufactured from the recyclable materials and provide copy of this report to the generator when the report is submitted to the CUPA. (HSC Section 25143.10(a)(3)(A)) 552

UPCF (1/99 revised)

Recyclable Materials Biennial Report Page 2

Complete a **separate** Page 2 of the Report for each recyclable material.

(Note: the numbering of the instructions follows the data element numbers that are on the UPCF pages. These data element numbers are used for electronic submission and are the same as the numbering used in 27 CCR, Appendix C, the Business Section of the Unified Program Data Dictionary.)

Please number all pages of your submittal. This helps your CUPA or AA identify whether the submittal is complete and if any pages are separated.

519. TOTAL NUMBER OF RECYCLABLE MATERIALS - Enter the total number of recyclable materials which will be described in this report. Complete a separate Report Page 2 for each recyclable material and verify that the number of pages is the same as the total number listed here.

520. RECYCLABLE MATERIAL NUMBER - Enter the unique identification number of the recyclable material that is described on this page. The recyclable materials can be numbered sequentially, or by any other system as long as the numbers are not repeated or duplicated.

521. COMMON NAME (RECYCLABLE MATERIAL) - Enter the common name of the material recycled. This is the same as item 207, the Common Name on the Hazardous Materials Inventory - Chemical Description page.

522. QUANTITY DURING TWO YEAR REPORTING PERIOD - Enter the total quantity of this recyclable material recycled during the two-year reporting period. Round to nearest decimal. In this case, 1.4 tons = 1 ton reported.

523. UNITS - Enter the unit of measure for the quantity reported in item 522.

524. RECYCLABLE MATERIAL DESCRIPTION - Describe the recyclable material that was used in the recycling process, if not described in item 521, COMMON NAME.

525. RECYCLABLE MATERIAL PROCESS DESCRIPTION - Describe the recycling process and, if the recyclable material was used to provide a product, or was used as a substitute for a product, describe the beneficial use of the recyclable material.

526. AUTHORIZING PROVISION OF HSC SECTION 25143.2 - Enter the subdivision(s), and subparagraph(s) (if applicable) of HSC §25143.2 that served as the basis for the claim to exemption or exclusion. For example: HSC §25143.2(d)(2)(C).

527. BASIS FOR CLAIM TO EXCLUSION OR EXEMPTION - Explain the basis for the claim to an exclusion or exemption.

528. HAZARDOUS CONSTITUENT 1-4 - Describe up to four hazardous constituents of the recyclable material (use common name, if appropriate). If more than four constituents of the recyclable material are recycled, attach additional sheets using the same format as on the UPCF. (Report for constituents 2 through 4 in 534, 540, and 546.)

529. CONCENTRATION RECYCLABLE MATERIAL 1-4 - Enter the concentrations of up to four hazardous constituents of the recyclable material as a decimal number. (Report for constituents 2 through 4 in 535, 541, and 547.)

530. UNITS RECYCLABLE MATERIAL 1-4 - Enter the unit of measure of the concentration that is most appropriate, for up to four hazardous constituents of the recyclable material. (Report for constituents 2 through 4 in 536, 542, and 548.)

531. CONCENTRATION FINAL PRODUCT 1-4 - Enter the concentrations in the final product of up to four hazardous constituents of the recyclable material as a decimal number. (Report for constituents 2 through 4 in 537, 543, and 549.)

532. UNITS FINAL PRODUCT 1-4 - Enter the unit of measure of the concentration in the final product, for up to four hazardous constituents of the recyclable material. (Report for constituents 2 through 4 in 538, 544, and 550.)

533. FINAL PRODUCT/USES FOR CONSTITUENT 1-4 - Describe the final product(s) that resulted from the recycling process and how each product was beneficially used. (Report for constituents 2 through 4 in 539, 545, and 551.)

552. DOCUMENTATION - For offsite recyclers, check the box to indicate that documentation of known market is provided. Documentation is required pursuant to HSC §25143.10(a)(3)(A) to show that there was a known market for disposition of the recyclable material and any products manufactured from it.

UPCF (1/99 revised)

HISTORY

1. Relocation and amendment of Recyclable Materials Report form from Division 1, Subdivision 4, Appendix E, filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).

State of California - California Environmental Protection Agency Department of Toxic Substances Control

UNIFIED PROGRAM CONSOLIDATED FORM

HAZARDOUS WASTE

ONSITE HAZARDOUS WASTE TREATMENT NOTIFICATION – FACILITY PAGE

Page of

BUSINESS NAME (Same as FACILITY NAME or DBA Doing Business As) 3	FACILITY ID# 1

II. STATUS

NOTIFICATION STATUS 600	PERMIT STATUS (Check all that apply) 601	
☐ a Amended	☐ a Facility Permit	☐ d Variance
☐ b Initial	☐ b Interim Status	☐ e Consent Agreement
☐ c Renewal (PBR Only)	☐ c Standardized Permit	

III. NUMBER OF UNITS AT FACILITY

(Indicate the number of units you operate in each tier, attach one unit notification page for each unit except CE-CL)

A	Conditionally Exempt – Small Quantity Treatment (CESQT) (May not function under any other tier)	602
B	Conditionally Exempt Specified Wastestream (CESW)	
C	Conditionally Authorized (CA)	
D	Permit by Rule (PBR)	
E	Conditionally Exempt – Limited (CEL)	
F	Conditionally Exempt Commercial Laundry (CE-CL) (No unit page is required for laundries)	
G	TOTAL UNITS (Must equal the number of unit notification pages attached plus the number of CE-CL units)	

IV. CERTIFICATION AND SIGNATURE

Waste Minimization I certify that I have a program in place to reduce the volume, quantity and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment.

Tiered Permitting Certification I certify that the unit or units described in these documents meet the eligibility and operating requirements of state statutes and regulations for the indicated permitting tier, including generator and secondary containment requirements. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete.

I am aware that there are substantial penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

SIGNATURE OF OWNER/OPERATOR	DATE 603
NAME OF OWNER/OPERATOR 604	TITLE OF OWNER/OPERATOR 605

REQUEST FOR SHORTENED REVIEW PERIOD (CE and CA only) ☐ Yes ☐ No

State Reason for Request

V. ATTACHMENTS (Check if attached)

ALL tiers except CE-CL (Laundries) must submit:	PBR ONLY
☐ 1 One unit specific notification page and one treatment process page per unit	☐ 1 Tank and container certifications, if required
☐ 2 Plot Plan (or other grid/map)	☐ 2 Notification of local agency or agencies
	☐ 3 Notification of property owner, if different from business owner
PBR & CA ONLY:	
☐ 1 Closure Financial Assurance (formerly DTSC form 1232)	
☐ Self Certified (< $10,000) ☐ Other mechanism	
☐ 2 Prior Enforcement History, if applicable	

UPCF (12/99 revised) Formerly DTSC 1772

State of California - California Environmental Protection Agency Department of Toxic Substances Control

Onsite Hazardous Waste Treatment Notification – Facility

There are several treatment activities that, although they would be otherwise regulated, are exempt under the law provided certain conditions are met. Exempt treatment activities are described in Appendix A of these instructions (see below) and if your treatment activities are exempt then no notification is required for these activities.
If your treatment activities do not qualify for an exemption complete this page if your facility is a hazardous waste generator performing treatment of hazardous wastes at the site where the waste is generated, and the facility is eligible under the Conditional Exemption (CE), or Conditional Authorization (CA) tiers, or operates a Fixed Treatment Unit (FTU) under the Permit by Rule (PBR) tier. To determine which tier or tiers apply to your operations, refer to the DTSC Onsite Tiered Permitting Flow Chart, which graphically displays the eligible waste streams and treatment processes by tier.
Submit one facility page (Onsite Hazardous Waste Treatment Notification - Facility) per facility, regardless of the number of treatment units located at the site. Attach a unit specific page (Onsite Hazardous Waste Treatment Notification - Unit) and a Waste and Treatment Process Combinations page for each treatment unit at this location.
For notification requirements for PBR FTUs refer to 22 CCR §67450.2, for CA refer to HSC §25200.3(e) and (k), and for CE refer to HSC §25201.5(d) and (i).
(Note: the numbering of the instructions follows the data element numbers that are on the UPCF pages. These data element numbers are used for electronic submission and are the same as the numbering used in 27 CCR, Appendix C, the Business Section of the Unified Program Data Dictionary.)
Please number all pages of your submittal. This helps your CUPA or local agency identify whether the submittal is complete and if any pages are separated.

1. FACILITY ID NUMBER - Leave this blank. This number is assigned by the CUPA. This is the unique number which identifies your facility.
3. BUSINESS NAME - Enter the full legal name of the business.
600. NOTIFICATION STATUS - Check whether this notification is your initial notification under the Tiered Permitting system, an amended notification, or a renewal (for PBR only).
601. PERMIT STATUS - Check the status of the permit for State issued hazardous waste permits or grants of authorization.
602. NUMBER OF UNITS - For each of the permitting tiers or categories listed, enter the number of units you operate at this facility location. **Complete a unit specific notification page and a waste and treatment process page** for each unit you list here, except for CE-CL units. Verify that the total number of units (item 602g) is equal to the number of unit specific notification and waste and treatment process pages included in the submittal plus the number of CE-CL units (item 602f).
SIGNATURE OF OWNER/OPERATOR - The business owner or officer of the company who is authorized to make decisions for the facility and who has operational control, shall sign in the space provided. In most companies, this is not the environmental compliance or technical staff. The title should indicate that an appropriately authorized person is signing for the company. Original signatures are required.
You are signing the certifications and attesting to their accuracy under penalty of law for submitting false information. The certifications cover waste minimization, the eligibility of the unit(s) for the indicated tier, the fact that the unit meets all of the operating requirements for that tier, and that the information is accurate. These operating requirements are set forth in the statutes and regulations.
603. DATE CERTIFIED - Enter the date that the page was signed.
604. OWNER/ OPERATOR NAME - Enter the full printed name of the person signing the page.
605. OWNER/ OPERATOR TITLE - Enter the title of the person signing the page.

REQUESTING A SHORTENED REVIEW PERIOD - Generators operating under CA and CE are legally authorized 60 days after submitting a complete notification. The time period between notification and authorization may be shortened when the owner or operator shows a good cause. Check whether or not you are requesting to be authorized sooner than the standard 60-day period, and state the reason for the request. The authorization will be automatically effective on the date the completed notification page is received by the CUPA. (If necessary, use additional sheets to explain your reasons.) Generators operating under the PBR tier are not authorized until they are notified by the CUPA.

ATTACHMENTS *NOTE: Commercial Laundries are <u>not</u> required to provide attachments.*

ALL FACILITIES-
1. Complete a unit notification and a waste and treatment process page for EACH unit covered by this notification.
2. Provide a plot plan or map detailing the location or locations of the unit or units at this facility. This document is for use by the inspector. Clearly indicate the facility boundaries and major features. The extent or detail of the plot plan will vary depending on the size of the facility, the extent of the industrial operations, and the number of treatment units. A diagram prepared for the hazardous materials business plan (required by Title 19 CCR) may be used, as long as the unit numbers for the units covered by this notification are indicated.

PBR & CA ONLY
1. Complete the Certification of Financial Assurance for Closure and attach here (formerly DTSC Form 1232). Check whether you have Self-Certified (because your closure costs are less than $10,000) or if you are submitting a financial mechanism.
2. Prior Enforcement History information is required **ONLY** if this facility was the subject of any convictions, judgments, settlements or final orders resulting from an action by any local, state, or federal environmental, hazardous waste, or public health enforcement agency. If applicable, attach a statement or summary that lists the cases for the last three years and provide a copy of the cover sheet from each document (conviction, settlement, etc.). The summary should include case and docket number, name and address of the agency, date, brief explanation, type of case (criminal, civil, administrative) and final resolution (including fines and penalties).

ADDITIONAL SUBMISSION TO DTSC:

A PHASE I ENVIRONMENTAL ASSESSMENT IS REQUIRED FROM ALL PBR AND CA FACILITIES AND MUST BE SUBMITTED TO DTSC, NOT TO YOUR CUPA. This assessment was due on January 1, 1997 or within one year from initial notification for newer facilities. Revisions are required if new releases are discovered.
The assessment checklist and instructions are available from DTSC. Call (916) 324-2423 or write to DTSC-Unified Program Section, P.O. Box 806, Sacramento, CA 95812-0806. Completed Phase I Assessments should be submitted to the same address.

PBR ONLY
1. Tank and/or containment system certifications are required to be submitted for only PBR units by 22 CCR § 67450.2(b)(3)(G), when applicable. The specific standards are in 22 CCR §66264.175(c) for containers and 22 CCR §66265.191(a) and 66265.192(a) for tanks.
2. Notification of local agencies. Attach documentation of the other local agencies notified of your operation, i.e. sewer agency.
3. Notification of property owner. If the property owner is different than the operator, provide documentation that the facility operator has notified the property owner of the operation of this hazardous waste treatment unit under PBR.

UPCF (12/99 revised) Formerly DTSC 1772

State of California - California Environmental Protection Agency Department of Toxic Substances Control

Appendix A - Exempt Treatment Activities

There are several treatment activities which, although they would be otherwise regulated, are exempt under the law provided certain conditions are met. No notification is required if these are the only treatment activities performed at the facility. These activities are:

1. Biotechnology Elementary Neutralization Activities - Refer to HSC §25201.15
   Biotechnology elementary neutralization activities are the elementary neutralization of wastes generated by biotechnology manufacturing or biotechnology process development activities. This includes activities conducted in SIC Code Subgroups 283, 2833, 2834, 2835, 2836, 8731, 8732, and 8733, including manufacturing and process development of medicinal chemicals and botanical products, pharmaceutical preparations, in vitro and in vivo diagnostic substances, and biological products, and all associated equipment and vessel cleaning and maintenance operations. These activities are exempt if ALL of the following conditions are met:

   - A permit is not required to conduct elementary neutralization under federal law.
   - The hazardous wastes are hazardous solely due to acidic or alkaline materials.
   - Either of the following applies with regard to the biotechnology elementary neutralization activity:

     a) The hazardous wastes in the elementary neutralization unit do not contain more than 10 percent by weight acid or alkaline constituents.

     b) The generator determines the neutralization process will not raise the temperature of the hazardous wastes to within 10 degrees of the boiling point or cause the release of hazardous gaseous emissions.
   - The hazardous wastes are not diluted for the sole purpose of meeting the criteria specified in subparagraph (a) above AND after neutralization the wastewaters do not exhibit the characteristic of corrosivity.
   - The temperature of any unit 100 gallons or larger is automatically monitored, is fitted with a high temperature alarm system, and for closed systems, the unit automatically controls the adding and mixing of corrosive and neutralizing solutions.

2. Neutralization of Acid/ Alkaline Wastes from Regeneration of Ion Exchange Media - Refer to HSC §25201.13(a)
   NO authorization is needed to neutralize acid/alkaline wastes from regeneration of the ion exchange media used to demineralize water, if the waste contains less than or equal to 10 percent acid or base by weight.

3. Neutralization of Acid/ Alkaline Wastes from the Food Processing Industry - Refer to HSC §25201.13(c)
   NO authorization is needed to neutralize acid/alkaline wastes from the food processing industry.

4. Silver Recovery - Refer to HSC §25143.13, amended by Senate Bill (SB) 2111, (Chapter 309, Statutes of 1998)
   NO authorization is needed for the recovery of silver (provided that the solutions and wastewaters are "silver-only" hazardous wastes, and are not hazardous for any other reason or constituent) from photofinishing/photoimaging solutions and photoimaging solution wastewaters. These wastes are regulated only to the extent they are regulated under the federal Resource Conservation and Recovery Act.

5. Sieving or Filtering Under Limited Conditions - Refer to HSC §25123.5(b)(2)(A), amended by Assembly Bill (AB) 966, (Chapter 506, Statutes of 1998)
   NO authorization is needed for sieving or filtering liquid hazardous waste to remove solid fractions, WITHOUT added heat, chemicals, or pressure, as the waste is added to or removed from a storage or accumulation tank or container, if the activity is conducted onsite. For this exemption, sieving or filtering does not include adsorption, reverse osmosis, or ultrafiltration.

6. Phase Separation Under Limited Conditions - Refer to HSC §25123.5(b)(2)(B), amended by AB 966, (Chapter 506, Statutes of 1998)
   NO authorization is needed for phase separation of hazardous waste during storage or accumulation in tanks or containers, if the separation is unaided by the addition of heat or chemicals, and the activity is conducted onsite.

7. Combination of Wastestreams Under Limited Conditions - Refer to HSC §25123.5(b)(2)(C), amended by AB 966, (Chapter 506, Statutes of 1998)
   NO authorization is needed for combining two or more waste streams that are not incompatible into a single tank or container if the activity is conducted onsite and BOTH of the following conditions apply:

   a) The waste streams are being combined solely for the purpose of consolidated accumulation or storage or consolidated offsite shipment, and they are NOT being combined to meet a fuel specification or to otherwise be chemically or physically prepared to be treated, burned for energy value, or incinerated.

   b)The combined waste stream is managed in compliance with the most stringent of the regulatory requirements applicable to each individual waste stream.

8. Evaporation of Water Under Limited Conditions - Refer to HSC §25123.5(b)(2)(D), amended by AB 966, (Chapter 506, Statutes of 1998)
   NO authorization is needed for evaporation of water from hazardous wastes in tanks or containers, such as breathing and evaporation through vents and floating roofs, WITHOUT the addition of pressure, chemicals, or heat other than sunlight or ambient room lighting or heating, if the activity is conducted onsite.

Appendix A

HISTORY

1. Relocation and amendment of former DTSC form 1772 from Division 1, Subdivision 4, Appendix E, filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).

UNIFIED PROGRAM CONSOLIDATED FORM

HAZARDOUS WASTE

ONSITE HAZARDOUS WASTE TREATMENT NOTIFICATION – UNIT PAGE

(one page and attachments per unit)

Page __ of __

FACILITY ID#	1	BUSINESS NAME (Same as FACILITY NAME or DBA – Doing Business As)	3

I. TREATMENT UNIT

UNIT ID# 606	UNIT TYPE/TIER 607	NUMBER OF TANKS 608	NUMBER OF CONTAINERS/ TREATMENT AREAS 609
	☐ a CESQT ☐ b CESW ☐ c CA ☐ d PBR ☐ e CEL		
UNIT NAME 610		**MONTHLY TREATMENT VOLUME 611**	**UNIT OF MEASURE 612**
			☐ a Pounds ☐ b Gallons

SPECIFIC WASTE TYPE TREATED (narrative) 613

TREATMENT PROCESS DESCRIPTION (narrative) 614

(NOTE: for each treatment unit, complete and attach the appropriate Waste And Treatment Process Combinations page)

II. BASIS FOR NOT NEEDING FEDERAL PERMIT (Check all that apply)

615

☐ a. The treated waste is not a hazardous waste under federal law (California-only waste).

☐ b. Treated in waste water treatment units (tanks) and discharged to a publicly owned treatment works (POTW)/ sewering agency or under an NPDES permit.

☐ c. Treatment in elementary neutralization units.

☐ d. Treatment in a totally enclosed treatment facility.

☐ e. Federal conditionally exempt small quantity generator (generated 100 kg, approximately 27 gallons, or less of hazardous waste in a calendar month).

☐ f. Treatment in an accumulation tank or container within 90 days for over 1000 kg/month generators and 180 or 270 days for generators of 100 to 1000 kg/month.

☐ g. Recyclable materials are reclaimed to recover silver or other precious metals.

☐ h. Empty container rinsing and/or treatment.

☐ i. Other (specify below)

III. RESIDUALS MANAGEMENT DESCRIPTION (Check all that apply)

☐ a. Discharge non-hazardous aqueous waste to POTW or sewer.

☐ b. Discharge non-hazardous aqueous waste under a NPDES permit.

☐ c. Dispose of non-hazardous solid waste residues at an offsite location.

Residual hazardous waste hauled offsite by a registered hauler. 616

☐ d. Offsite recycling
☐ e. Thermal treatment
☐ f. Disposal to land
☐ g. Further treatment
☐ h. Other method of disposal (describe below)

SECONDARY CONTAINMENT INSTALLATION DATE (If required) 617

UPCF (12/99 revised)

Onsite Hazardous Waste Treatment Notification – Unit

Complete a unit specific page (Onsite Hazardous Waste Treatment Notification - Unit) and a Waste and Treatment Process Combinations page for each treatment unit operating at this facility. Commercial Laundries are *not* required to complete unit specific pages, provided that laundering is the only hazardous waste treatment activity conducted by the facility.
(Note: the numbering of the instructions follows the data element numbers that are on the UPCF pages. These data element numbers are used for electronic submission and are the same as the numbering used in 27 CCR, Appendix C,
the Business Section of the Unified Program Data Dictionary.)
Please number all pages of your submittal. This helps your CUPA or local agency identify whether the submittal is complete and if any pages are separated.

1. FACILITY ID NUMBER - Leave this blank. This number is assigned by the CUPA. This is the unique number which identifies your facility.
3. BUSINESS NAME - Enter the full legal name of the business.
606 UNIT ID NUMBER - Enter a unique number for each unit. The units can be numbered sequentially, or by any other system as long as the numbers are not repeated or duplicated. All unit numbers must be clearly labeled on the plot plan/map.
607 UNIT TYPE / TIER - Check the unit type under the Tiered Permitting program.
608 NUMBER OF TANKS - Enter the number of tanks used in the unit. Tank means a stationary device, designed to contain an accumulation of hazardous waste, which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support (22 CCR §66260.10).
609 NUMBER OF CONTAINERS/ TREATMENT AREAS - Enter the number of containers/ container treatment used in the unit. Container means any device that is open or closed, and portable in which a material can be stored, handled, treated, transported, recycled, or disposed of (22 CCR §66260.10). Container treatment area is the location set aside and used to treat containers.
610 UNIT NAME - Enter the name of the treatment unit. A treatment unit is defined as a tank, a container, or a combination of tanks or tank systems and/or containers located together that are used in sequence to treat or accumulate one or more compatible hazardous waste streams. The devices are either plumbed together or otherwise linked so as to form one system.
611 MONTHLY TREATMENT VOLUME - Enter the estimated monthly total volume of hazardous waste treated in each unit. If the volume fluctuates significantly by month, enter the maximum or highest volume treated in any month.
612 UNIT OF MEASURE - Check whether the treatment volume unit of measure is pounds or gallons.
613 SPECIFIC WASTE TYPE TREATED - Describe the specific waste type(s) treated. For example, if waste qualifies as an aqueous waste with metal or organics, indicate the specific metals or organics.
614 TREATMENT PROCESS DESCRIPTION - Describe the treatment process(es) used. Indicate if the activities are seasonal or periodic.
615 BASIS FOR NOT NEEDING FEDERAL PERMIT - Check the reason(s) that best describe why your onsite treatment unit does not need a federal hazardous waste permit. You must indicate at least one reason to prove your eligibility for the onsite treatment tiers. If you are unsure how these exemptions apply to your operation, contact your CUPA, the DTSC Regional Office closest to you, the U.S. EPA's Region IX RCRA Information Line at (415) 744-2074, or the U.S. EPA RCRA Hotline at (800) 424-9346. The eight most common reasons for not needing a federal permit are listed on the page. There is also a space to specify another reason and a citation. The following terms used on the page are defined in 40 CFR 260.10:
- wastewater treatment unit means a device which (1) is part of a wastewater treatment facility regulated under section 402 or 307(b) of the Clean Water Act, and (2) receives and treats or stores an influent wastewater that is
a hazardous waste or that generates and accumulates a wastewater treatment sludge that is a hazardous waste or that treats or stores a wastewater treatment sludge which is a hazardous waste, and (3) meets the definition of tank or tank system.
- elementary neutralization unit means a device which (1) is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic or they are listed only for this reason, and (2) meets the definition of tank, tank system, container, transport vehicle, or vessel.
- totally enclosed treatment facility means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment.
- NPDES permit: A permit issued by a regional water board allowing discharge of waste to the environment under the National Pollutant Discharge Elimination System (NPDES).

616 RESIDUALS MANAGEMENT DESCRIPTION - Check the management of residuals. If appropriate, describe "other" method of handling the residuals.
617 SECONDARY CONTAINMENT INSTALLATION DATE - Enter the date the secondary containment was installed.

UPCF (12/99 revised)

HISTORY

1. Relocation and amendment of Onsite Hazardous Waste Treatment Notification form from Division 1, Subdivision 4, Appendix E, filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).

UNIFIED PROGRAM CONSOLIDATED FORM

ONSITE TIERED PERMITTING

CONDITIONALLY EXEMPT SMALL QUANTITY TREATMENT (CESQT) PAGE

WASTE AND TREATMENT PROCESS COMBINATIONS

(one page per treatment unit – check all that apply)

UNIT ID# 606 Facility ID# 1 Page of

CESQT = treats < 55 gallons or 500 pounds of hazardous waste in any calendar month in ALL units at this facility (NOT a limit for each wastestream or unit separately). CESQT generators may not hold other state or federal hazardous waste permit or authorization for this facility, including other onsite tiers.

627

1. **Aqueous wastes containing hexavalent chromium may be treated by the following process:**
   - ☐ a. Reduction of hexavalent chromium to trivalent chromium with sodium bisulfite, sodium metabisulfite, sodium thiosulfate, ferrous sulfate, ferrous sulfide or sulfur dioxide provided both pH and addition of the reducing agent are automatically controlled.

2. **Aqueous wastes containing metals listed in Title 22, CCR, Section 66261.24 (a)(2) and/or fluoride salts may be treated by the following technologies:**
   - ☐ a. pH adjustment or neutralization.
   - ☐ b. Precipitation or crystallization.
   - ☐ c. Phase separation by filtration, centrifugation or gravity settling.
   - ☐ d. Ion exchange.
   - ☐ e. Reverse osmosis.
   - ☐ f. Metallic replacement.
   - ☐ g. Plating the metal onto an electrode.
   - ☐ h. Electrodialysis
   - ☐ i. Electrowinning or electrolytic recovery
   - ☐ j. Chemical stabilization using silicates and/or cementitious types of reactions.
   - ☐ k. Evaporation.
   - ☐ l. Adsorption

3. **Aqueous wastes with total organic carbon less than 10% as measured by EPA Method 9060 and less than 1% total volatile organic compounds as measured by EPA Method 8240 may be treated by the following technologies::**
   - ☐ a. Phase separation by filtration, centrifugation or gravity settling, but excluding super critical fluid extraction.
   - ☐ b. Adsorption.
   - ☐ c. Distillation.
   - ☐ d. Biological processes conducted in tanks or containers and utilizing naturally occurring microorganisms.
   - ☐ e. Photodegradation using ultraviolet light, with or without the addition of hydrogen peroxide or ozone, provided the treatment is conducted in an enclosed system.
   - ☐ f. Air stripping or steam stripping.

4. **Sludges, dusts, solid metal objects and metal workings which contain or are contaminated with metals listed in Title 22, CCR, Section 66261.24 (a)(2) and/or fluoride salts may be treated by the following technologies:**
   - ☐ a. Chemical stabilization using silicates and/or cementitious types of reactions.
   - ☐ b. Physical processes which change only the physical properties of the waste such as grinding, shredding, crushing or compacting.
   - ☐ c. Drying to remove water.
   - ☐ d. Separation based on differences in physical properties such as size, magnetism or density.

5. **Alum, gypsum, lime, sulfur or phosphate sludges may be treated by the following technologies:**
   - ☐ a. Chemical stabilization using silicates and/or cementitious types of reactions.
   - ☐ b. Drying to remove water.
   - ☐ c. Phase separation by filtration, centrifugation or gravity settling.

6. **Wastes identified in Title 22, CCR, Section 66261.120, that meet the criteria and requirements for special waste classification in Section 66261.22 may be treated by the following technologies:**
   - ☐ a. Chemical stabilization using silicates and/or cementitious types of reactions.
   - ☐ b. Drying to remove water.
   - ☐ c. Phase separation by filtration, centrifugation or gravity settling.
   - ☐ d. Screening to separate components based on size.
   - ☐ e. Separation based on differences in physical properties such as size, magnetism or density.

7. **Wastes, except asbestos, which have been classified by the Department as special wastes pursuant to Title 22, CCR, Section 66261.124, my be treated by the following technologies:**
   - ☐ a. Chemical stabilization using silicates and/or cementitious types of reactions.
   - ☐ b. Drying to remove water
   - ☐ c. Phase separation by filtration, centrifugation or gravity settling.
   - ☐ d. Magnetic separation

8. **Inorganic acid or alkaline wastes may be treated by the following technology:**
   - ☐ a. pH adjustment or neutralization.

9. **Soils contaminated with metals listed in Title 22, CCR, Section 66261.24(a)(2), (Persistent and Bioaccumulative Toxic Substances) may be treated by the following technologies:**
   - ☐ a. Chemical stabilization using silicates and/or cementitious types of reactions.
   - ☐ b. Screening to separate components based on size.
   - ☐ c. Magnetic separation.

10. **Used oil, unrefined oil waste, mixed oil, oil mixed with water and oil/water separation sludges may be treated by the following technologies:**
    - ☐ a. Phase separation by filtration, centrifugation or gravity settling, but excluding super critical fluid extraction.
    - ☐ b. Distillation.
    - ☐ c. Neutralization.
    - ☐ d. Separation based on differences in physical properties such as size, magnetism or density.
    - ☐ e. Reverse osmosis.
    - ☐ f. Biological processes conducted in tanks or containers and utilizing naturally occurring microorganisms.

11. **Containers of 110 gallons or less capacity which are not constructed of wood, paper, cardboard, fabric, or any other similar absorptive material, which have been emptied as specified in Title 40 of the Code of Federal Regulations, section 261.7 or inner liners removed from empty containers that once held hazardous waste or hazardous material and which are not excluded from regulation may be treated by the following technologies provided the treated containers and rinseate are managed in compliance with applicable requirements.**
    - ☐ a. Rinsing with a suitable liquid capable of dissolving or removing the hazardous constituents which the container held.
    - ☐ b. Physical processes such as crushing, shredding, grinding or puncturing, that change only the physical properties of the container or inner liner, provided the container or inner liner is first rinsed and the rinseate is removed from the container or inner liner.

12. **Multi-component resins may be treated by the following process:**
    - ☐ a. Mixing the resin components in accordance with the manufacturer's instructions.

13. **A waste stream technology combination certified by the Department pursuant to Section 25200.1.5 of the Health and Safety Code as appropriate for authorization under CESQT.**
    - ☐ Certified Technology Number

UPCF (12/99)

Waste and Treatment Process Combinations

The Waste and Treatment Process Combinations pages list those waste and treatment combinations certified by DTSC pursuant to HSC §25200.1.5 for authorization under CE, CA, and PBR tiers. Each page is specific to a tier, with each tier specific page listing the wastes and treatment processes eligible under that tier. Note that some of the categories have volume or concentration restrictions that must be met in order to qualify for that tier. Additionally, some of the wastes refer to 22 CCR and others to the Health and Safety Code.

Complete one Waste and Treatment Process Combinations page for each unit, except CE-CL units.

(Note: the numbering of the instructions follows the data element numbers that are on the UPCF pages. These data element numbers are used for electronic submission and are the same as the numbering used in 27 CCR, Appendix C, the Business Section of the Unified Program Data Dictionary.)

Please number all pages of your submittal. This helps your CUPA or local agency identify whether the submittal is complete and if any pages are separated.

606. UNIT ID NUMBER - Enter the unit ID number (same as item 606 from the Onsite Hazardous Waste Treatment Notification - Unit page).

1. FACILITY ID NUMBER - Leave this blank. This number is assigned by the CUPA. This is the unique number which identifies your facility.

627. WASTE AND TREATMENT PROCESS COMBINATIONS - CESQT 628. WASTE AND TREATMENT PROCESS COMBINATIONS - CESW 629. WASTE AND TREATMENT PROCESS COMBINATIONS - CA 630. WASTE AND TREATMENT PROCESS COMBINATIONS - PBR 631. WASTE AND TREATMENT PROCESS COMBINATIONS - CEL	Use the correct page for the unit. Check the waste and treatment process(es) that pertain to the unit. If the process is a technology certified by DTSC, please enter the Certified Technology Number (Cert. #). Certified technologies appropriate for authorization, and the eligible tiers, are listed below.

Note that reactive and extremely hazardous wastes are not allowed to be treated under any of the onsite treatment tiers, except for certain wastes under Conditionally Exempt - Specified Wastestreams.

CERTIFIED TECHNOLOGIES

DTSC is authorized to certify hazardous waste technologies. Appropriate certified technologies may be eligible for CE, CA or PBR onsite treatment tiers. As of April 1, 1999, there is one certified technology for these tiers. The certification is for aldehyde treatment processes and is eligible for the CESW tier. The approved technology is:

Neutralex	SCIGEN
Cert. #. 97-01-0024	333 East Gardena Blvd. Gardena, CA 90248
Effective Date:	June 29, 1997 (expires June 29, 2000)
Description:	Batch treatment for 10 percent Formalin generated by medical, educational, and laboratory facilities. Chemically treats in a provided 8 liter vessel. After testing, allows for disposal to sanitary sewer.
Tier:	Authorized for the CESW tier.

A copy of published Certification Statements and additional updates may be obtained by contacting DTSC at (916) 322-3670 or from the Cal/EPA on-line Bulletin Board via modem at (916) 322-5041.

UPCF (12/99)

HISTORY

1. Relocation and amendment of CESQT form from Division 1, Subdivision 4, Appendix E, filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).

UNIFIED PROGRAM CONSOLIDATED FORM
ONSITE TIERED PERMITTING

CONDITIONALLY EXEMPT – SPECIFIED WASTESTREAMS (CESW) PAGE

WASTE AND TREATMENT PROCESS COMBINATIONS

(one page per treatment unit – check all that apply))

UNIT ID# 606 Facility ID# 1 Page ___ of ___ 628

☐ 1. Treating resins mixed or cured in accordance with the manufacturer's instructions (including one-part and pre-impregnated materials).

☐ 2. Treating a container of 110 gallons or less capacity, which is not constructed of wood, paper, cardboard, fabric or any other similar absorptive materials, for the purposes of emptying the container as specified by Section 66261.7 of Title 22 of the California Code of Regulations, as revised July 1, 1990, or treats the inner liners removed from empty containers that once held hazardous waste or hazardous material. The generator shall treat the container or inner liner by using the following technologies, provided the treated containers and rinseate are managed in compliance with the applicable requirements of this chapter:
(A) The generator rinses the container or inner liner with a suitable liquid capable of dissolving or removing the hazardous constituents which the container held, and/or
(B) The generator uses physical processes, such as crushing, shredding, grinding, or puncturing, that change only the physical properties of the container or inner liner, if the container or inner liner is first rinsed as provided in subparagraph (A) and the rinseate is removed from the container or inner liner.

☐ 3. Drying special wastes, as classified by the Department pursuant to Title 22, CCR, Section 66261.124, by pressing or by passive or heat-aided evaporation to remove water.

☐ 4. Magnetic separation or screening to remove components from special waste, as classified by the Department pursuant to Title 22, CCR, Section 66261.124.

5. Not in use/exempted—formerly neutralization and regeneration or ion exchange media used to demineralize water.

6. Not in use/exempted—formerly neutralization of food processing waste.

7. Not in use/exempted—formerly recovery of silver from photofinishing.

8. Gravity separation of the following, including the use of flocculants and demulsifiers if:
☐ a. The settling of solids from the waste where the resulting aqueous/liquid stream is not hazardous.
☐ b. The separation of oil/water mixtures and separation sludges, if the average oil recovered per month is less than 25 barrels (42 gallons per barrel). (Note: some used oil/water separation is eligible for CEL.)

☐ 9. Neutralizing acidic or alkaline (basic) material by a state certified laboratory, a laboratory operated by an educational institution, or a laboratory which treats less than one gallon of onsite generated hazardous waste in any single batch. (To be eligible for conditional exemption, this waste cannot contain more than 10 percent acid or base by weight.)

☐ 10. Hazardous waste treatment is carried out in quality control or quality assurance laboratory at a facility that is not an offsite hazardous waste facility.

☐ 11. A wastestream and treatment technology combination certified by the Department pursuant to Section 25200.1.5 of the Health and Safety Code as appropriate for authorization under CESW.
Certified Technology Number

☐ 12. The treatment of formaldehyde or glutaraldehyde by a health care facility using a technology combination certified by the Department pursuant to section 25200.1.5 of the Health and Safety Code.
Certified Technology Number

UPCF (12/99) Formerly DTSC 1772B

Waste and Treatment Process Combinations

The Waste and Treatment Process Combinations pages list those waste and treatment combinations certified by DTSC pursuant to HSC §25200.1.5 for authorization under CE, CA, and PBR tiers. Each page is specific to a tier, with each tier specific page listing the wastes and treatment processes eligible under that tier. Note that some of the categories have volume or concentration restrictions that must be met in order to qualify for that tier. Additionally, some of the wastes refer to 22 CCR and others to the Health and Safety Code.

Complete one Waste and Treatment Process Combinations page for each unit, except CE-CL units.

(Note: the numbering of the instructions follows the data element numbers that are on the UPCF pages. These data element numbers are used for electronic submission and are the same as the numbering used in 27 CCR, Appendix C, the Business Section of the Unified Program Data Dictionary.)

Please number all pages of your submittal. This helps your CUPA or local agency identify whether the submittal is complete and if any pages are separated.

606. UNIT ID NUMBER - Enter the unit ID number (same as item 606 from the Onsite Hazardous Waste Treatment Notification - Unit page).

1. FACILITY ID NUMBER - Leave this blank. This number is assigned by the CUPA. This is the unique number which identifies your facility.

627. WASTE AND TREATMENT PROCESS COMBINATIONS - CESQT 628. WASTE AND TREATMENT PROCESS COMBINATIONS - CESW 629. WASTE AND TREATMENT PROCESS COMBINATIONS - CA 630. WASTE AND TREATMENT PROCESS COMBINATIONS - PBR 631. WASTE AND TREATMENT PROCESS COMBINATIONS - CEL	Use the correct page for the unit. Check the waste and treatment process(es) that pertain to the unit. If the process is a technology certified by DTSC, please enter the Certified Technology Number (Cert. #). Certified technologies appropriate for authorization, and the eligible tiers, are listed below.

Note that reactive and extremely hazardous wastes are not allowed to be treated under any of the onsite treatment tiers, except for certain wastes under Conditionally Exempt - Specified Wastestreams.

CERTIFIED TECHNOLOGIES

DTSC is authorized to certify hazardous waste technologies. Appropriate certified technologies may be eligible for CE, CA or PBR onsite treatment tiers. As of April 1, 1999, there is one certified technology for these tiers. The certification is for aldehyde treatment processes and is eligible for the CESW tier. The approved technology is:

Neutralex	SCIGEN
Cert. #. 97-01-0024	333 East Gardena Blvd. Gardena, CA 90248
Effective Date:	June 29, 1997 (expires June 29, 2000)
Description:	Batch treatment for 10 percent Formalin generated by medical, educational, and laboratory facilities. Chemically treats in a provided 8 liter vessel. After testing, allows for disposal to sanitary sewer.
Tier:	Authorized for the CESW tier.

A copy of published Certification Statements and additional updates may be obtained by contacting DTSC at (916) 322-3670 or from the Cal/EPA on-line Bulletin Board via modem at (916) 322-5041.

UPCF (12/99) Formerly DTSC 1772B

HISTORY

1. Relocation and amendment of former DTSC form 1772B from Division 1, Subdivision 4, Appendix E, filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).

UNIFIED PROGRAM CONSOLIDATED FORM

ONSITE TIERED PERMITTING

CONDITIONALLY AUTHORIZED (CA) PAGE

WASTE AND TREATMENT PROCESS COMBINATIONS

(one page per treatment unit – check all that apply)

Unit ID# 606 Facility ID# 1 Page of

1. Aqueous wastes, hazardous solely due to inorganic constituents, except asbestos, listed in Title 22, CCR, Section 66261.24(a)(1)(B) or (a)(2)(A) and which contain less than 1,400 ppm total of these constituents. (There is no volume limit for this wastestream.) Treatment using: 618
   - ☐ a. Phase separation, including precipitation, by filtration, centrifugation, or gravity settling, including the use of demulsifiers and flocculants.
   - ☐ b. Ion exchange, including metallic replacement
   - ☐ c. Reverse osmosis
   - ☐ d. Adsorption
   - ☐ e. pH adjustment of aqueous waste with a pH of between 2.0 and 12.5
   - ☐ f. Electrowinning of solutions, unless those solutions contain hydrochloric acid
   - ☐ g. Reduction of solutions hazardous solely due to hexavalent chromium, to trivalent chromium with sodium bisulfite, sodium metabisulfite, sodium thiosulfate, ferrous chloride, ferrous sulfate, ferrous sulfide, or sulfur dioxide. The solution contains less than 750 ppm of hexavalent chromium.

2. Aqueous wastes, hazardous solely due to organic constituents listed in Title 22, CCR, Section 66261.24(a)(1)(B) or (2)(B) and which contain less than 750 ppm total of these constituents. (There is no volume limit for this wastestream.) Treatment using:
   - ☐ a. Phase separation by filtration, centrifugation, or gravity settling, but excluding super critical fluid extraction.
   - ☐ b. Adsorption

3. Sludges resulting from wastewater treatment, dusts, solid metal objects, and metal workings which are hazardous solely due to the presence of constituents, except asbestos, listed in Title 22, CCR, Section 66261.24(a)(1)(B) or (a)(2)(A) and which, for dusts only, contain less than 750 ppm total of these constituents. The monthly volume treated in this unit does not exceed 5,000 gallons or 45,000 pounds. Treatment using:
   - ☐ a. Physical processes which constitute treatment only because they change the physical properties of the waste, such as filtration, centrifugation, gravity settling, grinding, shredding, crushing, or compacting.
   - ☐ b. Drying to remove water.
   - ☐ c. Separation based on differences in physical properties, such a size, magnetism, or density.

4. Alum, gypsum, lime, sulfur, or phosphate sludges. The monthly volume treated in this unit does not exceed 5,000 gallons or 45,000 pounds. Treatment using:
   - ☐ a. Drying to remove water.
   - ☐ b. Phase separation by filtration, centrifugation, or gravity settling.

5. Special wastes listed in Title 22, CCR, Section 66261.120 that meet the criteria in Title 22, CCR, Section 66261.122 which is hazardous solely due to the constituents, except asbestos, listed in Title 22, CCR, Section 66261.24(a)(1)(B) or (a)(2)(A) and which contain less than 750 ppm total of these constituents. The monthly volume treated in this unit does not exceed 5,000 gallons or 45,000 pounds. Treatment using:
   - ☐ a. Drying to remove water.
   - ☐ b. Phase separation by filtration, centrifugation, or gravity settling.
   - ☐ c. Screening to separate components based on size.
   - ☐ d. Separation based on differences in physical properties, such as size, magnetism, or density.

6. Special wastes classified under Title 22, CCR, Section 66261.124 as special wastes, except asbestos, which is hazardous solely due to the constituents, except asbestos, listed in Title 22, CCR, Section 66261.24(a)(1)(B) or (a)(2)(A) and which contain less than 750 ppm total of these constituents. The monthly volume treated in this unit does not exceed 5,000 gallons or 45,000 pounds. Treatment using:
   - ☐ a. Drying to remove water.
   - ☐ b. Phase separation by filtration, centrifugation, or gravity settling.
   - ☐ c. Magnetic separation

7. Soils contaminated with metals listed in Title 22, CCR, Section 66261.24(a)(2)(A). The monthly volume treated in this unit does not exceed 5,000 gallons or 45,000 pounds. Treatment using:
   - ☐ a. Screening to separate components based on size.
   - ☐ b. Magnetic separation.

8. Oil mixed with water and oil/water separation sludges. (There is no volume limit for this wastestream.) Treatment using: (NOTE: Some used oil/water separation is allowed under the CEL category.)
   - ☐ a. Phase separation by filtration, centrifugation, or gravity settling, but excluding super critical fluid extraction, including the use of demulsifiers and flocculants. Heat can be used, but must not exceed 160 degrees Fahrenheit.
   - ☐ b. Separation based on differences in physical properties, such a size, magnetism, or density.
   - ☐ c. Reverse osmosis.

9. Neutralization of acidic or alkaline wastes, hazardous solely due to corrosivity, or toxic only from the acid or caustic material, in elementary neutralization units. (There is no volume limit for this wastestream.)
   - ☐ a. The waste contains less than 10 percent acid or base constituents by weight. There is no volume limit for this category.
   - ☐ b. The waste contains 10 percent or more acid or base constituents by weight and is treated in batches that do not exceed 500 gallons at one time.

10. Not in use/exempted—formerly recovery of silver from photofinishing.

11. Not in use/sunsetted—formerly treatment of spent cleaners and conditioners which are hazardous solely due to copper or copper compounds. Treatment of this wastestream is no longer allowed under Conditional Authorization as of January 1, 1998. Treatment of this wastestream now requires authorization under either Permit by Rule or, if the total volume treated is less than 55 gallons per month, under Conditionally Exempt Small Quantity Treatment.

12. A wastestream technology combination certified by the Department pursuant to Section 25200.1.5 of the Health and Safety Code as appropriate for authorization under Conditional Authorization.

☐ Certified Technology Number

UPCF (1/99) Formerly DTSC 1772C

Waste and Treatment Process Combinations

The Waste and Treatment Process Combinations pages list those waste and treatment combinations certified by DTSC pursuant to HSC §25200.1.5 for authorization under CE, CA, and PBR tiers. Each page is specific to a tier, with each tier specific page listing the wastes and treatment processes eligible under that tier. Note that some of the categories have volume or concentration restrictions that must be met in order to qualify for that tier. Additionally, some of the wastes refer to 22 CCR and others to the Health and Safety Code.

Complete one Waste and Treatment Process Combinations page for each unit, except CE-CL units.

(Note: the numbering of the instructions follows the data element numbers that are on the UPCF pages. These data element numbers are used for electronic submission and are the same as the numbering used in 27 CCR, Appendix C, the Business Section of the Unified Program Data Dictionary.)

Please number all pages of your submittal. This helps your CUPA or local agency identify whether the submittal is complete and if any pages are separated.

606. UNIT ID NUMBER - Enter the unit ID number (same as item 606 from the Onsite Hazardous Waste Treatment Notification - Unit page).

1. FACILITY ID NUMBER - Leave this blank. This number is assigned by the CUPA. This is the unique number which identifies your facility.

627. WASTE AND TREATMENT PROCESS COMBINATIONS - CESQT 628. WASTE AND TREATMENT PROCESS COMBINATIONS - CESW 629. WASTE AND TREATMENT PROCESS COMBINATIONS - CA 630. WASTE AND TREATMENT PROCESS COMBINATIONS - PBR 631. WASTE AND TREATMENT PROCESS COMBINATIONS - CEL	Use the correct page for the unit. Check the waste and treatment process(es) that pertain to the unit. If the process is a technology certified by DTSC, please enter the Certified Technology Number (Cert. #). Certified technologies appropriate for authorization, and the eligible tiers, are listed below.

Note that reactive and extremely hazardous wastes are not allowed to be treated under any of the onsite treatment tiers, except for certain wastes under Conditionally Exempt - Specified Wastestreams.

CERTIFIED TECHNOLOGIES

DTSC is authorized to certify hazardous waste technologies. Appropriate certified technologies may be eligible for CE, CA or PBR onsite treatment tiers. As of April 1, 1999, there is one certified technology for these tiers. The certification is for aldehyde treatment processes and is eligible for the CESW tier. The approved technology is:

Neutralex	SCIGEN
Cert. #. 97-01-0024	333 East Gardena Blvd. Gardena, CA 90248
Effective Date:	June 29, 1997 (expires June 29, 2000)
Description:	Batch treatment for 10 percent Formalin generated by medical, educational, and laboratory facilities. Chemically treats in a provided 8 liter vessel. After testing, allows for disposal to sanitary sewer.
Tier:	Authorized for the CESW tier.

A copy of published Certification Statements and additional updates may be obtained by contacting DTSC at (916) 322-3670 or from the Cal/EPA on-line Bulletin Board via modem at (916) 322-5041.

UPCF (1/99) Formerly DTSC 1772C

HISTORY

1. Relocation and amendment of former DTSC form 1772C from Division 1, Subdivision 4, Appendix E, filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).

UNIFIED PROGRAM CONSOLIDATED FORM

ONSITE TIERED PERMITTING

PERMIT BY RULE PAGE

WASTE AND TREATMENT PROCESS COMBINATIONS

(one page per treatment unit – check all that apply)

Unit ID# 606 Facility ID# 1 Page ___ of 630

1. **Aqueous waste containing hexavalent chromium may be treated by the following process:**
   - ☐ a. Reduction of hexavalent chromium to trivalent chromium with sodium bisulfite, sodium metabisulfite, sodium thiosulfate, ferrous sulfate, ferrous sulfide or sulfur dioxide provided both pH and addition of the reducing agent are automatically controlled.

2. **Aqueous wastes containing metals listed in Title 22, CCR, Section 66261.24 (a)(2) and/or fluoride salts may be treated by the following technologies:**
   - ☐ a. pH adjustment or neutralization
   - ☐ b. Precipitation or crystallization
   - ☐ c. Phase separation by filtration, centrifugation, or gravity settling
   - ☐ d. Ion exchange
   - ☐ e. Reverse osmosis
   - ☐ f. Metallic replacement
   - ☐ g. Plating the metal onto an electrode.
   - ☐ h. Electrodialysis.
   - ☐ i. Electrowinning or electrolytic recovery.
   - ☐ j. Chemical stabilization using silicates and/or cementitious types of reactions.
   - ☐ k. Evaporation.
   - ☐ l. Adsorption.

3. **Aqueous wastes with total organic carbon less than 10% as measured by EPA Method 9060 and less than 1% total volatile organic compounds as measured by EPA Method 8240 may be treated by the following technologies:**
   - ☐ a. Phase separation by filtration, centrifugation or gravity settling, but excluding super critical fluid extraction.
   - ☐ b. Adsorption.
   - ☐ c. Distillation.
   - ☐ d. Biological processes conducted in tanks or containers and utilizing naturally occurring microorganisms.
   - ☐ e. Photodegradation using ultraviolet light, with or without the addition of hydrogen peroxide or ozone, provided the treatment is conducted in an enclosed system.
   - ☐ f. Air stripping or steam stripping.

4. **Sludges, dusts, solid metal objects and metal workings which contain or are contaminated with metals listed in Title 22, CCR, Section 66261.24(a)(2) and/or fluoride salts may be treated by the following technologies:**
   - ☐ a. Chemical stabilization using silicates and/or cementitious types of reactions.
   - ☐ b. Physical processes which change only the physical properties of the waste such as grinding, shredding, crushing, or compacting.
   - ☐ c. Drying to remove water.
   - ☐ d. Separation based on differences in physical properties such as size, magnetism or density.

5. **Alum, gypsum, lime, sulfur or phosphate sludges may be treated by the following technologies:**
   - ☐ a. Chemical stabilization using silicates and/or cementitious types of reactions.
   - ☐ b. Drying to remove water
   - ☐ c. Phase separation by filtration, centrifugation or gravity settling.

6. **Wastes identified in Title 22, CCR, Section 66261.120, that meet the criteria and requirements for special waste classification in Section 66261.122 may be treated by the following technologies:**
   - ☐ a. Chemical stabilization using silicates and/or cementitious types of reactions.
   - ☐ b. Drying to remove water.
   - ☐ c. Phase separation by filtration, centrifugation or gravity settling.
   - ☐ d. Screening to separate components based on size.
   - ☐ e. Separation based on differences in physical properties such as size, magnetism or density.

7. **Wastes, except asbestos, which have been classified by the Department as special wastes pursuant to Title 22, CCR, Section 66261.124, may be treated by the following technologies:**
   - ☐ a. Chemical stabilization using silicates and/or cementitious types of reactions.
   - ☐ b. Drying to remove water.
   - ☐ c. Phase separation by filtration, centrifugation or gravity settling.
   - ☐ d. Magnetic separation.

8. **Inorganic acid or alkaline wastes may be treated by the following technology:**
   - ☐ a. pH adjustment or neutralization.

9. **Soils contaminated with metals listed in Title 22, CCR, Section 66261.24(a)(2), (Persistent and Bioaccumulative Toxic Substances) may be treated by the following technologies:**
   - ☐ a. Chemical stabilization using silicates and/or cementitious types of reactions.
   - ☐ b. Screening to separate components based on size.
   - ☐ c. Magnetic separation.

10. **Used oil, unrefined oil waste, mixed oil, oil mixed with water and oil/water separation sludges may be treated by the following technologies:**
    - ☐ a. Phase separation by filtration, centrifugation or gravity settling, but excluding super critical fluid extraction.
    - ☐ b. Distillation.
    - ☐ c. Neutralization
    - ☐ d. Separation based on differences in physical properties such as size, magnetism or density.
    - ☐ e. Reverse osmosis.
    - ☐ f. Biological processes conducted in tanks or containers and utilizing naturally occurring microorganisms.

11. **Containers of 110 gallons or less capacity which are not constructed of wood, paper, cardboard, fabric or any other similar absorptive material, which have been emptied as specified in Title 40 of the Code of Federal Regulations, Section 261.7 or inner liners removed from empty containers that once held hazardous waste or hazardous material and which are not excluded from regulation may be treated by the following technologies provided the treated containers and rinseate are managed in compliance with applicable requirements.**
    - ☐ a. Rinsing with a suitable liquid capable of dissolving or removing the hazardous constituents which the container held.
    - ☐ b. Physical processes such as crushing, shredding, grinding or puncturing, that change only the physical properties of the container or inner liner, provided the container or inner liner is first rinsed and the rinseate is removed from the container or inner liner.

12. **Multi-component resins may be treated by the following process:**
    - ☐ a. Mixing the resin components in accordance with the manufacturer's instructions.

13. **A waste stream technology combination certified by the Department pursuant to Section 25200.1.5 of the Health and Safety Code as appropriate for authorization under Permit by Rule.**

_____ Certified Technology Number

14.	**Aqueous wastes generated by rinsing products and fixtures holding products that were processed in cyanide–containing solutions may be treated by the following technologies:**
Θ	Oxidation by addition of hypochlorite
Θ	Oxidation by addition of peroxide or ozone, with or without the use of ultraviolet light
Θ	Alkaline chlorination
Θ	Electrochemical oxidation
Θ	Ion exchange
Θ	Reverse osmosis
15.	**Aqueous wastes generated by reverse osmosis or the regeneration of demineralizer (ion exchange) columns that were used for recycling of wastewaters at facilities that maintain zero discharge of wastewaters derived from the treatment of cyanide–containing aqueous waste may be treated by the following technologies:**
Θ	Oxidation by addition of hypochlorite
Θ	Oxidation by addition of peroxide or ozone, with or without the use of ultraviolet light
Θ	Alkaline chlorination
Θ	Electrochemical oxidation
Θ	Ion exchange
Θ	Reverse osmosis
16.	**Rinsate from rinsing equipment used to transfer aqueous solutions containing cyanides such as containers, pumps, and hoses may be treated by the following technologies:**
Θ	Oxidation by addition of hypochlorite
Θ	Oxidation by addition of peroxide or ozone, with or without the use of ultraviolet light
Θ	Alkaline chlorination
Θ	Electrochemical oxidation
Θ	Ion exchange
Θ	Reverse osmosis
17.	**Aqueous wastes generated by the following onsite recycling activities 1) Rinsing spent anode bags prior to onsite reuse; or 2) Rinsing empty containers prior to onsite reuse may be treated by the following technologies:**
Θ	Oxidation by addition of hypochlorite
Θ	Oxidation by addition of peroxide or ozone, with or without the use of ultraviolet light
Θ	Alkaline chlorination
Θ	Electrochemical oxidation
Θ	Ion exchange
Θ	Reverse osmosis

18.	**Aqueous wastes generated by onsite laboratories conducting analyses and testing may be treated by the following technologies:**
Θ	Oxidation by addition of hypochlorite
Θ	Oxidation by addition of peroxide or ozone, with or without the use of ultraviolet light
Θ	Alkaline chlorination
Θ	Electrochemical oxidation
Θ	Ion exchange
Θ	Reverse osmosis
19.	**Process solutions containing cyanides with recoverable amounts of metal may be treated by the following technology:**
Θ	Electrowinning to recover metals prior to further treatment, including destruction of incidental amounts of cyanide by electrochemical oxidation resulting from the electrowinning process
20.	**Process solutions containing cyanides added slowly to a rinse tank at a level that never exceeds 5000 milligrams per liter cyanide in the rinse tank may be treated by the following technologies:**
Θ	Oxidation by addition of hypochlorite
Θ	Oxidation by addition of peroxide or ozone, with or without the use of ultraviolet light
Θ	Alkaline chlorination
Θ	Electrochemical oxidation
Θ	Ion exchange
Θ	Reverse osmosis

UPCF Rev. (08/08)

Waste and Treatment Process Combinations

The Waste and Treatment Process Combinations pages list those waste and treatment combinations certified by DTSC pursuant to HSC §25200.1.5 for authorization under CE, CA, and PBR tiers. Each page is specific to a tier, with each tier specific page listing the wastes and treatment processes eligible under that tier. Note that some of the categories have volume or concentration restrictions that must be met in order to qualify for that tier. Additionally, some of the wastes refer to 22 CCR and others to the Health and Safety Code.

Complete one Waste and Treatment Process Combinations page for each unit, except CE–CL units.

(Note: the numbering of the instructions follows the data element numbers that are on the UPCF pages. These data element numbers are used for electronic submission and are the same as the numbering used in 27 CCR, division 3, subdivision 1, chapters 1–5.)

Please number all pages of your submittal. This helps your CUPA or local agency identify whether the submittal is complete and if any pages are separated.

606. UNIT ID NUMBER — Enter the unit ID number (same as item 606 from the Onsite Hazardous Waste Treatment Notification — Unit page).

1. FACILITY ID NUMBER — Leave this blank. This number is assigned by the CUPA. This is the unique number which identifies your facility.

627. WASTE AND TREATMENT PROCESS COMBINATIONS — CESQT 628. WASTE AND TREATMENT PROCESS COMBINATIONS — CESW 629. WASTE AND TREATMENT PROCESS COMBINATIONS — CA 630. WASTE AND TREATMENT PROCESS COMBINATIONS — PBR 631. WASTE AND TREATMENT PROCESS COMBINATIONS — CEL	Use the correct page for the unit. Check the waste and treatment process(es) that pertain to the unit. If the process is a technology certified by DTSC, please enter the Certified Technology Number (Cert. #). Certified technologies appropriate for authorization, and the eligible tiers, are listed below.

Note that reactive and extremely hazardous wastes are not allowed to be treated under any of the onsite treatment tiers, except for certain wastes under Conditionally Exempt — Specified Wastestreams and Permit by Rule.

CERTIFIED TECHNOLOGIES

DTSC is authorized to certify hazardous waste technologies. Appropriate certified technologies may be eligible for CE, CA or PBR onsite treatment tiers. As of April 1, 1999, there is one certified technology for these tiers. The certification is for aldehyde treatment processes and is eligible for the CESW tier. The approved technology is:

Neutralex	SCIGEN
Cert. #. 97–01–0024	333 East Gardena Blvd. Gardena, CA 90248
Effective Date:	June 29, 1997 (expires June 29, 2000)
Description:	Batch treatment for 10 percent Formalin generated by medical, educational, and laboratory facilities. Chemically treats in a provided 8 liter vessel. After testing, allows for disposal to sanitary sewer.
Tier:	Authorized for the CESW tier.

A copy of published Certification Statements and additional updates may be obtained by contacting DTSC at (916) 322–3670 or from the Cal/EPA on–line Bulletin Board via modem at (916) 322–5041.

UPCF Rev. (08/08)

UNIFIED PROGRAM CONSOLIDATED FORM

ONSITE TIERED PERMITTING

CONDITIONALLY EXEMPT - LIMITED (CEL) PAGE

WASTE AND TREATMENT PROCESS COMBINATIONS

(one page per treatment unit - check all that apply))

Unit ID# 606 Facility ID# 1 Page ___ of ___

☐ 1. Puncturing, draining, or crushing of aerosol cans, at ambient temperature, using equipment or technology combination certified by the Department of Toxic Substances control (DTSC) pursuant to section 25200.1.5 of the Health and Safety Code. The equipment must capture gaseous and liquid contents, prevent fire, explosion, and unauthorized releases of hazardous constituents, and prevent worker exposure. The aerosol cans must be recycled as scrap metal.

_____ Certified Technology Number

NOTE: This category is not available until DTSC certifies a manufacturer's equipment.

2. The separation of used oil from water, provided that the wastesteam is hazardous solely due to the oil and the used oil is properly transported to an authorized offsite oil recycler. Treatment using:

☐ a. Gravity separation.

☐ b. A centrifuge.

☐ c. A membrane technology.

☐ d. Heating of the water containing used oil to a temperature that is not more than 20 degrees Fahrenheit below the flashpoint of the used oil component of the mixture at atmospheric pressure.

☐ e. The addition of demulsifiers to the water containing used oil.

NOTE: The authorized separation of used oil from water under this wastestream may not include contaminated groundwater or water containing any measurable amounts of gasoline or more than two percent (2%) diesel fuel (combination of Number 1 or 2 fuel).

Waste and Treatment Process Combinations

The Waste and Treatment Process Combinations pages list those waste and treatment combinations certified by DTSC pursuant to HSC §25200.1.5 for authorization under CE, CA, and PBR tiers. Each page is specific to a tier, with each tier specific page listing the wastes and treatment processes eligible under that tier. Note that some of the categories have volume or concentration restrictions that must be met in order to qualify for that tier. Additionally, some of the wastes refer to 22 CCR and others to the Health and Safety Code.

Complete one Waste and Treatment Process Combinations page for each unit, except CE-CL units.

(Note: the numbering of the instructions follows the data element numbers that are on the UPCF pages. These data element numbers are used for electronic submission and are the same as the numbering used in 27 CCR, Appendix C, the Business Section of the Unified Program Data Dictionary.)

Please number all pages of your submittal. This helps your CUPA or local agency identify whether the submittal is complete and if any pages are separated.

606. UNIT ID NUMBER - Enter the unit ID number (same as item 606 from the Onsite Hazardous Waste Treatment Notification - Unit page).

1. FACILITY ID NUMBER - Leave this blank. This number is assigned by the CUPA. This is the unique number which identifies your facility.

627. WASTE AND TREATMENT PROCESS COMBINATIONS - CESQT 628. WASTE AND TREATMENT PROCESS COMBINATIONS - CESW 629. WASTE AND TREATMENT PROCESS COMBINATIONS - CA 630. WASTE AND TREATMENT PROCESS COMBINATIONS - PBR 631. WASTE AND TREATMENT PROCESS COMBINATIONS - CEL	Use the correct page for the unit. Check the waste and treatment process(es) that pertain to the unit. If the process is a technology certified by DTSC, please enter the Certified Technology Number (Cert. #). Certified technologies appropriate for authorization, and the eligible tiers, are listed below.

Note that reactive and extremely hazardous wastes are not allowed to be treated under any of the onsite treatment tiers, except for certain wastes under Conditionally Exempt - Specified Wastestreams.

CERTIFIED TECHNOLOGIES

DTSC is authorized to certify hazardous waste technologies. Appropriate certified technologies may be eligible for CE, CA or PBR onsite treatment tiers. As of April 1, 1999, there is one certified technology for these tiers. The certification is for aldehyde treatment processes and is eligible for the CESW tier. The approved technology is:

Neutralex	SCIGEN
Cert. #. 97-01-0024	333 East Gardena Blvd. Gardena, CA 90248
Effective Date:	June 29, 1997 (expires June 29, 2000)
Description:	Batch treatment for 10 percent Formalin generated by medical, educational, and laboratory facilities. Chemically treats in a provided 8 liter vessel. After testing, allows for disposal to sanitary sewer.
Tier:	Authorized for the CESW tier.

A copy of published Certification Statements and additional updates may be obtained by contacting DTSC at (916) 322-3670 or from the Cal/EPA on-line Bulletin Board via modem at (916) 322-5041.

UPCF (1/99) Formerly DTSC 1772D

HISTORY

1. Relocation and amendment of former DTSC form 1772D from Division 1, Subdivision 4, Appendix E, filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).
2. Amendment filed 7–7–2008; operative 8–6–2008 (Register 2008, No. 28).

[The next page is 893.]

State of California - California Environmental Protection Agency Department of Toxic Substances Control

UNIFIED PROGRAM CONSOLIDATED FORM

HAZARDOUS WASTE

CERTIFICATION OF FINANCIAL ASSURANCE

FOR PERMIT BY RULE AND CONDITIONALLY AUTHORIZED ONSITE TREATERS

700

☐ a. Initial Certification ☐ b. Amended Certification ☐ c. Annual Certification Page of

I. FACILITY IDENTIFICATION (Put an asterisk in the left margin next to the amended information)

BUSINESS NAME (Same as FACILITY NAME or DBA – Doing Business As) 3

FACILITY ID# 1 FACILITY EPA ID# 2

TYPE OF OPERATION ☐ a. PBR-FTU ☐ b. CA ☐ c. Other 701

II. ESTIMATED CLOSURE COSTS

NOTE: In addition to the dollar figure below, a written estimate of closure costs must be attached when you submit this section of this page.

ESTIMATED CLOSURE COSTS $ 702

III. EXEMPTION FROM FINANCIAL ASSURANCE REQUIREMENTS

1. I am not required to provide a mechanism because:

☐ a. I certify that my closure cost estimate is less than or equal to $10,000, or 703

☐ b. Specify other reasons 704

☐ 2. As a PBR owner or operator, I have not operated more than thirty days in a calendar year. (Does not apply to Conditional Authorization) 705

IV. CLOSURE FINANCIAL ASSURANCE MECHANISM

☐ I am required to provide a mechanism and it is attached to this page. 706

EFFECTIVE DATE OF CLOSURE ASSURANCE MECHANISM 707

MECHANISM ID NUMBER(S): 708

MECHANISM TYPE (Check one item only) 709

☐ a. Closure Trust Fund ☐ b. Surety Bond ☐ c. Closure Letter of Credit ☐ d. Closure Insurance ☐ e. Financial test and Corporate Guarantee ☐ f. Alternative Mechanism ☐ g. Multiple Financial Mechanisms ☐ h. Certificate of Deposit ☐ i. Savings Account

FINANCIAL INSTITUTION, INSURANCE OR SURETY COMPANY/ OTHER ORGANIZATION 710

ADDRESS 711

CITY 712 STATE 713 ZIP CODE 714

V. OWNER OR OPERATOR CERTIFICATION

SIGNER OF THIS CERTIFICATION ☐ a. Owner ☐ b. Operator 715

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations. (22 CCR §66270.11)

SIGNATURE OF OWNER/OPERATOR DATE 716

NAME OF OWNER/OPERATOR (Print) 717 TITLE OF OWNER/OPERATOR 718

UPCF (12/99) Formerly DTSC 1232

State of California - California Environmental Protection Agency Department of Toxic Substances Control

Certification Of Financial Assurance

This page is to be completed by the owner or operator of a Fixed Treatment Unit operating under Permit by Rule (PBR), or a generator operating pursuant to a grant of Conditional Authorization (CA). If this is a new facility, this certification should be attached to the Onsite Hazardous Waste Treatment Notification - Facility page. If this is an existing facility and you have previously submitted a Notification, the certification and the financial assurance mechanism may be submitted without another notification.

Permit by Rule (PBR) and Conditionally Authorized (CA) operations are required to provide financial assurance for closure costs (22 CCR §67450.13(b) and HSC §25245.4). However, you are eligible for an exemption from financial assurance requirements if closure cost estimates are not more than $10,000 (22 CCR §67450.13(d)). PBR operations that operated less than thirty (30) days in any calendar year are also eligible for an exemption (22 CCR §67450.13(e)). Complete the page even if you qualify for an exemption.

An adjustment to the closure cost estimate for inflation is required to be completed by March 1 of each year. See 22 CCR §67450.13(a)(2) for instructions on calculating the adjustment. This updated closure cost estimate must be maintained at the facility. If your cost estimate now exceeds $10,000 for the first time, you must submit this Certification and a closure cost estimate within 30 days to your CUPA or authorized agency. If the cost estimate adjustment results in an increase and requires a change in your financial mechanism, submit this certification and revised mechanism within 60 days (§66265.143). Any change in information affecting the closure cost estimate or mechanism must be submitted within 30 days to your CUPA or authorized agency. Refer to 22 CCR §67450.13 for financial assurance requirements.

(Note: the numbering of the instructions follows the data element numbers that are on the UPCF pages. These data element numbers are used for electronic submission and are the same as the numbering used in 27 CCR, Appendix C, the Business Section of the Unified Program Data Dictionary.)
Please number all pages of your submittal. This helps the Department of Toxic Substances Control (DTSC) identify whether the submittal is complete and if any pages are separated.

1. FACILITY ID NUMBER - Leave this blank. This number is assigned by DTSC. This is the unique number which identifies your facility.
2. EPA ID NUMBER - Enter the EPA ID number for the facility.
3. BUSINESS NAME - Enter the full legal name of the business.

700. CERTIFICATION STATUS - Check the reason the certification is being completed.

701. TYPE OF OPERATION - Check the type of operation. If type of operation is not listed, check "other" and indicate type in the space provided.

702. ESTIMATED CLOSURE COSTS - Enter the total estimated cost of closing each treatment unit and attach a written estimate of the closure costs. The estimated closure cost may be either the actual cost or the estimated cost when using your own staff and/or equipment. The closure cost estimate may take into account any salvage value that may be realized from the sale of wastes, facility structure or equipment, land or other facility assets. Following is a model closure cost estimate:

ACTIVITY	COST
1. Removal, treatment (on-site or off-site), or disposal of waste inventories	
2. Removal and disposal of soil	
3. Decontamination of equipment and structure	
4. Demolition and removal of containment system components or structure	
5. Transportation	
6. Sampling and analysis of waste, soil, equipment, and structure	
7. Certification or other demonstration of closure ("clean" closure or specified level of decontamination)	
8. Other expenses (specify)	
9. Less Assets (salvage value of waste, equipment or property)	
TOTAL COST OF CLOSURE	

NOTE: For PBR only, if you have operated under PBR for less than 30 days in any calendar year, you qualify for an exemption. If eligible for the exemption, enter "EXEMPT" in this space.

703. EXEMPTION FROM FINANCIAL ASSURANCE - Check to claim the exemption from the financial assurance requirements for total closure cost estimate less than or equal to $10,000. A model letter using the required certifications must be submitted to claim this exemption.

704. EXEMPTION FROM FINANCIAL ASSURANCE - OTHER - Check to claim "other" reason for exemption from financial assurance requirements. Describe the reason for the exemption in the space provided. Reference the applicable statute or regulation granting the exemption.

705. EXEMPTION FROM FINANCIAL ASSURANCE - <30 DAYS PER YEAR - Check to claim the exemption from financial assurance requirements for owner or operator under PBR only and operating no more than thirty days in any calendar year.

706. REQUIREMENT FOR FINANCIAL ASSURANCE - Check to indicate whether the financial assurance mechanism is attached.

707. DATE OF CLOSURE ASSURANCE MECHANISM - Enter the effective date of the closure financial assurance mechanism.

708. MECHANISM ID NUMBER - If applicable, enter the number of the closure assurance mechanism, for example, the insurance policy number.

709. CLOSURE ASSURANCE MECHANISM - Check to indicate the type of financial mechanism established to provide the closure cost assurance. Eligible types are contained in 22 CCR §67450.13(a)(5). They are:
1. A closure trust fund, as provided in 22 CCR 66265.143(a); DTSC Form 1154
2. A surety bond guaranteeing payment into a closure trust fund, as described in 22 CCR 66265.143(b); either DTSC Form 1155 or 1156 with DTSC Form 1154
3. A closure letter of credit, as described in 22 CCR 66265.143(c); DTSC Form 1157
4. Closure insurance, as described in 22 CCR 66265.143(d); DTSC Form 1158
5. A financial test and corporate guarantee for closure, as described in 22 CCR 66265.143(e); either DTSC Form 1159 or 1173
6. An alternative mechanism for closure costs, as described in 22 CCR 67450.13(c); (no form)
7. Use of multiple financial mechanisms for closure costs, as described in 22 CCR 66265.143(g); (no form)
8. A certificate of deposit, as described in section 3-104(2)(c) of the Uniform Commercial Code; (no form) or,
9. A savings account, as described in section 4-104(a) of the Uniform Commercial Code; (no form).

These mechanisms require use of the additional DTSC Financial Assurance forms referenced above. These forms are available from the CUPA or the DTSC Regional Office. When using these forms, verify that the beneficiary is the CUPA, rather than DTSC.

710. FINANCIAL INSTITUTION OR SURETY NAME 711. FINANCIAL INSTITUTION OR SURETY ADDRESS 712. FINANCIAL INSTITUTION OR SURETY CITY 713. FINANCIAL INSTITUTION OR SURETY STATE 714. FINANCIAL INSTITUTION OR SURETY ZIP CODE	For items 710 - 714, enter the name and address of the financial institution, insurance company, surety company, or other appropriate organization used to establish the closure financial assurance. Indicate your company if you are using a corporate guarantee and financial test.

715. SIGNER OF CERTIFICATION - Check to indicate whether the person certifying is the owner or the operator of the facility.
SIGNATURE - The business owner, or officer of the company who is authorized to make decisions for the facility and who has operational control, shall sign in the space provided. The authorized signatory must be completed as specified in Title 22, CCR, section 66270.11. In most companies, this is not the environmental compliance or technical staff. The title should indicate that an appropriate authorized person is signing for the company. Original signatures are required on all documents submitted.

716. DATE CERTIFIED - Enter the date that the document was signed
717. OWNER/ OPERATOR NAME - Enter the full printed name of the person signing the page.
718. OWNER/ OPERATOR TITLE - Enter the title of the person signing the page.

UPCF (12/99) Formerly DTSC 1232

HISTORY
1. Relocation and amendment of former DTSC form 1232 from Division 1, Subdivision 4, Appendix E, filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).

UNIFIED PROGRAM CONSOLIDATED FORM

HAZARDOUS WASTE

REMOTE WASTE CONSOLIDATION SITE ANNUAL NOTIFICATION

Page ___ of ___

☐ a. Initial ☐ b. Revised ☐ c. Annual 720

I. GENERAL INFORMATION

BUSINESS NAME (Same as FACILITY NAME or DBA – Doing Business As) 3	FACILITY ID# 1

II. CONSOLIDATION SITE INFORMATION

ADDRESS 721	FACILITY EPA ID# 2
CITY 722	CA ZIP CODE 723

DESCRIPTION OF THE TYPE(S) OF REMOTE LOCATION(S) AND SOURCE(S) FROM WHICH THE NON-RCRA HAZARDOUS WASTE WILL BE COLLECTED (i.e. power pole) 724

DESCRIPTION OF THE TYPE OF HAZARDOUS WASTE THAT MAY BE COLLECTED 725

Do you treat your hazardous waste at this consolidation site? 726 (optional) ☐ Yes ☐ No	ESTIMATED MONTHLY VOLUME CONSOLIDATED 727	UNITS ☐ a. Pounds ☐ b. Gallons 728

III. BASIS FOR NOT NEEDING A FEDERAL PERMIT

(Check all that apply) 729

☐ a. The hazardous waste being consolidated is not hazardous waste under federal law although the waste is regulated as hazardous waste under California state law.

☐ b. The hazardous waste is hazardous waste under federal law, but transportation to and accumulation at the consolidation site of the waste is not subject to permitting requirements under federal law for the following other reason(s):

IV. CERTIFICATIONS

I certify under penalty of law that the activities described in these documents meet the applicable eligibility and operating requirements of state statutes and regulations for remote waste and consolidation sites. I further certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are substantial penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

SIGNATURE OWNER/OPERATOR	DATE 730
NAME OF OWNER/OPERATOR (Print) 731	TITLE OF OWNER/OPERATOR 732

UPCF (12/99 revised) Formerly DTSC 1196

Remote Waste Consolidation Site Annual Notification

Complete this page if you are a generator and you collect non-RCRA or non-RCRA regulated hazardous waste initially at remote sites and subsequently transport the hazardous waste to consolidation sites which you also operate.

Complete one Remote Waste Consolidation Site Annual Notification per consolidation site. All generators having the intent to operate under this exemption must notify the CUPA annually.

Refer to HSC §25110.10 for eligibility and notification requirements.

(Note: the numbering of the instructions follows the data element numbers that are on the UPCF pages. These data element numbers are used for electronic submission and are the same as the numbering used in 27 CCR, Appendix C, the Business Section of the Unified Program Data Dictionary.)

Please number all pages of your submittal. This helps your CUPA or local agency identify whether the submittal is complete and if any pages are separated.

1. FACILITY ID NUMBER - Leave this blank. This number is assigned by the CUPA. This is the unique number which identifies your facility.

2. EPA ID NUMBER - Enter the EPA ID number for the facility.

3. BUSINESS NAME - Enter the full legal name of the business.

720. NOTIFICATION STATUS - Check the reason the notification is being completed.

721. ADDRESS - Enter the street address of consolidation site. If no address exists, enter a legal description of the site.

722. CITY - Enter the city or unincorporated area of consolidation site.

723. ZIP CODE - Enter the zip code of the consolidation site.

724. DESCRIPTION OF REMOTE LOCATION(S) - Describe the type of location(s) and source(s) from which the non-RCRA hazardous waste will initially be collected (i.e. power pole).

725. DESCRIPTION OF WASTE(S) COLLECTED - Describe the specific waste type(s) to be consolidated. Attach a continuation sheet showing additional wastes, if necessary.

726. ONSITE HAZARDOUS WASTE TREATMENT - Check "Yes" if hazardous waste is treated at this consolidation site, check "No" if it is not.

727. ESTIMATED MONTHLY VOLUME CONSOLIDATED - Enter the estimated monthly total volume of hazardous waste to be consolidated at this site.

728. UNITS - Check the units for the volume consolidated.

729. BASIS FOR NOT NEEDING A FEDERAL PERMIT - Check the reason for not needing a federal permit for this site. If the hazardous waste is RCRA hazardous waste, describe the reason you are not subject to permitting requirements under federal law in the space provided.

SIGNATURE - The business owner or officer of the company who is authorized to make decisions for the facility and who has operational control, shall sign in the space provided. In most companies, this is not the environmental compliance or technical staff. The title should indicate that an appropriately authorized person is signing for the company. You are signing the certifications and attesting to their accuracy under penalty of law for submitting false information. Original signatures are required.

730. DATE CERTIFIED - Enter the date that the document was signed.

731. OWNER/ OPERATOR NAME - Enter the full printed name of the person signing the page.

732. OWNER/ OPERATOR TITLE - Enter the title of the person signing the page.

UPCF (12/99 revised) Formerly DTSC 1196

HISTORY

1. Relocation and amendment of former DTSC form 1196 from Division 1, Subdivision 4, Appendix E, filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).

UNIFIED PROGRAM CONSOLIDATED FORM

HAZARDOUS WASTE

HAZARDOUS WASTE TANK CLOSURE CERTIFICATION

Page of

I. FACILITY IDENTIFICATION

BUSINESS NAME (Same as FACILITY NAME or DBA – Doing Business As) 3	FACILITY ID# 1

TANK OWNER NAME 740

TANK OWNER ADDRESS 741

TANK OWNER CITY 742	STATE 743	ZIP CODE 744

II. TANK CLOSURE INFORMATION

TANK INTERIOR ATMOSPHERE READINGS		Tank ID # (Attach additional copies of this page for more than three tanks)	Concentration of Flammable Vapor			Concentration of Oxygen		
			Top	Center	Bottom	Top	Center	Bottom
	1	745	746a	746b	746c	747a	747b	747c
	2	748	749a	749b	749c	750a	750b	750c
	3	751	752a	752b	752c	753a	753b	753c

III. CERTIFICATION

On examination of the tank, I certify the tank is visually free from product, sludge, scale (thin, flaky residual of tank contents), rinseate and debris. I further certify that the information provided herein is true and accurate to the best of my knowledge.

SIGNATURE OF CERTIFIER

NAME OF CERTIFIER (Print) 754

TITLE OF CERTIFIER 755

ADDRESS 756

CITY 757

PHONE 758

DATE 759 | CERTIFICATION TIME

STATUS OR AFFILIATION OF CERTIFYING PERSON

Certifier is a representative of the CUPA, authorized agency, or LIA: 760

☐ Yes ☐ No

Name of CUPA, authorized agency, or LIA: 761

If certifier is other than CUPA / LIA check appropriate box below: 762

- ☐ a. Certified Industrial Hygienist (CIH)
- ☐ b. Certified Safety Professional (CSP)
- ☐ c. Certified Marine Chemist (CMC)
- ☐ d. Registered Environmental Health Specialist (REHS)
- ☐ e. Professional Engineer (PE)
- ☐ f. Class II Registered Environmental Assessor
- ☐ g. Contractors' State License Board licensed contractor (with hazardous substance removal certification)

TANK PREVIOUSLY HELD FLAMMABLE OR COMBUSTIBLE MATERIALS 763

(If yes, the tank interior atmosphere shall be re-checked with a combustible gas indicator prior to work being conducted on the tank.) ☐ Yes ☐ No

CERTIFIER'S TANK MANAGEMENT INSTRUCTIONS FOR SCRAP DEALER, DISPOSAL FACILITY, ETC: 764

A copy of this certificate shall accompany the tank to the recycling / disposal facility and be provided to the CUPA. If there is no CUPA, copies shall be submitted to the LIA and authorized agency; owner / operator of the tank system; removal contractor; and the recycling / disposal facility.

UPCF (12/99) Formerly DTSC 1249 (6/98)

Hazardous Waste Tank Closure Certification

Complete and submit this page prior to initiating any cleaning, cutting, dismantling, or excavation of a tank system that meets the conditions below:
- Any tank system that previously held a hazardous material or a hazardous waste, that is identified as a hazardous waste, and that is destined to be disposed, reclaimed or closed in place.
- This does not apply to tank systems regulated under a hazardous waste facility permit, other than permit by rule (PBR), or to tank systems regulated under a grant of interim status, nor to a tank system or any portion thereof, that meets the definition of scrap metal in 22 CCR §66260.10 and is excluded from regulation pursuant to 22 CCR §66261.6(a)(3)(B).

Refer to 22 CCR §67383.3 and 23 CCR §2672 for disposal requirements for tank systems.

(Note: the numbering of the instructions follows the data element numbers that are on the UPCF pages. These data element numbers are used for electronic submission and are the same as the numbering used in 27 CCR, Appendix C, the Business Section of the Unified Program Data Dictionary.)

Please number all pages of your submittal. This helps your CUPA or local agency identify whether the submittal is complete and if any pages are separated.

1. FACILITY ID NUMBER - Leave this blank. This number is assigned by the CUPA. This is the unique number which identifies your facility.

3. BUSINESS NAME - Enter the full legal name of the business.

740. TANK OWNER NAME -
741. TANK OWNER ADDRESS
742. TANK OWNER CITY
743. TANK OWNER STATE
744. TANK OWNER ZIP CODE

Complete items 740-744, unless all items are the same as the Business Owner information (items 111-116) on the Business Owner/Operator Identification page (OES Form 2730). If the same, write "SAME AS SITE" across this section

745. TANK ID NUMBER 1-3 - Enter up to three owner's tank ID numbers. This is a unique number used by the owner to identify the tank. If more than three tanks are being closed, complete additional copies of this page. (Enter additional tank numbers in 748 and 751.)

746. CONCENTRATION OF FLAMMABLE VAPOR 1-3 - Enter three interior flammable vapor levels for each tank being closed, taken at the top, center, and bottom of the tank. (For more than one tank, enter additional tank readings in 749 and 752.)

747. CONCENTRATION OF OXYGEN 1-3 - Enter three interior oxygen levels for each tank being closed, taken at the top, center, and bottom of the tank. (For more than one tank, enter additional tank readings in 750 and 753).

SIGNATURE - The business owner or officer of the company who is authorized to make decisions for the facility and who has operational control, shall sign in the space provided.

754. CERTIFIER NAME - Enter the full printed name of the person signing the page.

755. CERTIFIER TITLE - Enter the title of the person signing the page.

756. CERTIFIER ADDRESS - Enter the address of the person signing the page.

757. CERTIFIER CITY - Enter the city for the signer's address.

758. CERTIFIER PHONE - Enter the phone number for the person signing the page.

759. DATE CERTIFIED - Enter the date that the document was signed. Enter the time that the readings were taken.

760. CERTIFIER REPRESENTS LOCAL AGENCY - Check "Yes" if the person certifying the tank is a representative of the CUPA, authorized agency, or LIA, check "No" if not.

761. NAME OF LOCAL AGENCY - Enter the name of the local agency represented by the person certifying the tank.

762. AFFILIATION OF CERTIFYING PERSON - Check the certification, license, or organization which the certifier holds or to which the certifying person belongs, if not a CUPA/ LIA.

763. TANK HELD FLAMMABLE OR COMBUSTIBLE MATERIALS - Check "Yes" if the tank held flammable or combustible materials, check "No" if not.

764. MANAGEMENT INSTRUCTIONS - Provide tank management instructions to the scrap dealer, disposal facility, etc., in this space.

UPCF (12/99) Formerly DTSC 1249 (6/98)

HISTORY

1. Relocation and amendment of former DTSC form 1249 from Division 1, Subdivision 4, Appendix E, filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).

Chapter 7. [Reserved]

Subdivision 2. Data Dictionary for Environmental Monitoring

Chapter 1. Laboratory Reporting

ACRONYMS

ASCII	American Standard Code (for) Information Interchange
CAS	Chemical Abstract Service
CL	Control Limit
COC	Chain-of-Custody
COELT	U.S. Army Corps of Engineers Loading Tool
CSV	Comma Separated Values (AKA Comma/Quote Delimited)
EDCC	Electronic Deliverable Consistency Checker
EDD	Electronic Data Deliverable
EDF	The Electronic Deliverable Format™
FK	Foreign Key
LIMS	Laboratory Information Management System
NA	Not Applicable
NC	Non-Client
ND	Non-Detected
PK	Primary Key
QA	Quality Assurance
QC	Quality Control
RPD	Relative Percent Difference
VVL	Valid Value List

HISTORY

1. New subdivision 2 (chapters 1-2), chapter 1 and list of acronyms filed 11-16-2004; operative 12-16-2004 (Register 2004, No. 47).

1. EDF — Electronic Deliverable Format

ID	*Element (Field Name)*	*Criteria*	*Length*	*Type*	*Definition*
3000	Global ID *(GLOBAL_ID)*		12	AN	The unique identifier for a regulated facility or site.
3001	Field Point Name *(FIELD_PT_NAME)*		15	AN	The unique name of the field location where the sample/field measurement has been collected.
3002	Field Point Class *(FIELD_PT_CLASS)*	Valid Values	5	AN	The code representing the type of field/survey point.
3003	Analysis Date *(ANADATE)*	YYYYMMDD	8	D	The date the sample (aliquot, extract, digest and/or leachate) is analyzed.
3004	Analytical Method *(ANMCODE)*	Valid Values	7	AN	The code identifying the method of analysis.
3005	Approved By *(APPRVD)*		3	AN	The initials of the individual approving the entire laboratory report, or a single analysis.
3006	Basis *(BASIS)*	Valid Values	1	AN	The code used to distinguish whether a sample is reported as dry or wet weight, filtered or not filtered.
3007	Control Limit Type *(CLCODE)*	Valid Values	6	AN	The code identifying the type of quality control limit.
3008	Cleanup Method *(CLEANUP)*	Valid Values	15	AN	The code identifying the method of cleanup performed.
3009	Control Limit Revision Date *(CLREVDATE)*		8	D	The date a control limit is established.
3010	Chain-of-Custody Matrix *(COC_MATRIX)*	Valid Values	2	AN	The code identifying the sample matrix as noted on the chain-of-custody (e.g., water, soil, etc.).
3011	Chain-of-Custody Number *(COCNUM)*		16	AN	The number assigned to the chain-of-custody.
3012	Cooler ID *(COOLER_ID)*		25	AN	The unique identifier representing a cooler used to transport samples from t he field to the lab.
3013	Dilution Factor *(DILFAC)*		10	N	The numeric factor indicating the level of sample dilution.
3014	Data Quality Objectives ID *(DQO_ID)*		25	AN	The unique identifier representing the data quality objectives.
3015	Preparation Method *(EXMCODE)*	Valid Values	7	AN	The code identifying the method of preparation.
3016	Expected Parameter Value *(EXPECTED)*		14	N	The target result for a quality control sample or surrogate spike.
3017	Preparation Date *(EXTDATE)*	YYYYMMDD	8	D	The date that a sample is prepared for analysis.
3018	Lab Method Group *(LAB_METH_GRP)*		25	AN	The unique identifier for a group of methods as defined by the laboratory.
3019	Laboratory Report Number *(LAB_REPNO)*		20	AN	The unique identifier for the laboratory report, assigned by the laboratory.
3020	Laboratory *(LABCODE)*	Valid Values	4	AN	The code identifying the laboratory that receives the sample.
3021	Method Detection Limit *(LABDL)*		9	N	The laboratory-established method detection limit (MDL) as determined using procedures outlined in 40 CFR, Part 136, Appendix B (or by equivalent statistical means), and adjusted for dilution.

ID	*Element (Field Name)*	*Criteria*	*Length*	*Type*	*Definition*
3022	Preparation Batch Number *(LABLOTCTL)*		25	AN	The unique identifier for a preparation and handling batch that groups the client samples with the QC samples with which they were prepared.
3023	Laboratory QC Sample ID *(LABQCID)*		25	AN	The unique identification number assigned to a quality control sample by the laboratory.
3024	Laboratory Reference ID *(LABREFID)*		25	AN	The laboratory sample ID of the quality control reference sample.
3025	Laboratory Sample ID *(LABSAMPID)*		25	AN	The unique identification number assigned to the sample by the laboratory.
3026	Work Order Number *(LABWO)*		7	AN	A delivery order number associated with the contract.
3027	Leach Method *(LCHMETH)*	Valid Values	10	AN	The code identifying the method of leaching.
3028	Laboratory Notes *(LNOTE)*	Valid Values	20	AN	The code identifying notes pertaining to analytical performance irregularities that apply to the entire test.
3029	Field Organization *(LOGCODE)*	Valid Values	4	AN	The code identifying the company collecting the samples or performing field tests.
3030	Collection Date *(LOGDATE)*	YYYYMMDD	8	D	The date a field sample is collected.
3031	Collection Time *(LOGTIME)*	HHMM	4	AN	The time that a field sample is collected, recorded using 24-hour military time.
3032	Lower Control Limit *(LOWERCL)*		4	N	The lower control limit of a quality control criterion.
3033	Laboratory Matrix *(MATRIX)*	Valid Values	2	AN	The code identifying the sample matrix as determined by the laboratory (e.g., water, soil, etc.); the matrix of the reported result.
3034	Method Design ID *(METH_DESIGN_ID)*		25	AN	The unique identifier for the design of an analytical method.
3035	Modified Parameter List *(MODPARLIST)*		1	L	A field indicating whether the parameter list of an analytical method has been modified.
3036	Parameter *(PARLABEL)*	Valid Values	12	AN	The code or CAS number identifying the analyte (parameter).
3037	Parameter Uncertainty *(PARUN)*		12	N	The uncertainty of a measured value due to a measuring technique (expressed as plus or minus some value).
3038	Parameter Value *(PARVAL)*		14	N14	The analytical value for a compound, analyte, or physical parameter.
3039	Parameter Value Qualifier *(PARVQ)*	Valid Values	2	AN	The code identifying the qualifier of an analytical result (e.g., greater than, equal to, etc.).
3040	Preservative *(PRESCODE)*	Valid Values	15	AN	The code identifying the type of preservative added to the sample.
3041	Procedure Name *(PROCEDURE_NAME)*		240	AN	The method title for an analysis or group of analyses as defined by the analysis laboratory.
3042	Project Name *(PROJNAME)*		25	AN	The identification assigned to the project by the organization performing the work.
3043	Primary Value Type *(PVCCODE)*	Valid Values	2	AN	The code identifying whether a sample result is a primary or a confirmatory value.

ID	*Element (Field Name)*	*Criteria*	*Length*	*Type*	*Definition*
3044	QC Type *(QCCODE)*	Valid Values	3	AN	The code identifying the type of sample (e.g., laboratory-generated, environmental, etc.).
3045	Received Date *(RECDATE)*	YYYYMMDD	8	D	The date the sample is received by the laboratory doing the analysis.
3046	Report Date *(REP_DATE)*	YYYYMMDD	8	D	The date of the laboratory report.
3047	Reporting Limit *(REPDL)*		9	N	The laboratory-established reporting limit, as defined by REPDLVQ, adjusted for the particular sample preparation (e.g., weight, volume, or dilution).
3048	Reporting Limit Qualifier *(REPDLVQ)*	Valid Values	3	AN	The code identifying the type of reporting limit entered into REPDL (e.g., practical quantitation limit, instrument detection limit, etc.).
3049	Requested Method Group *(REQ_METHOD_GRP)*		25	AN	The unique identifier for the method or group of methods requested by the client for analysis of the sample.
3050	Results Free Field 1 *(RES_FF_1)*		25	AN	Results free-entry field 1.
3051	Results Free Field 2 *(RES_FF_2)*		25	AN	Results free-entry field 2.
3052	Results Free Field 3 *(RES_FF_3)*		25	AN	Results free-entry field 3.
3053	Results Free Field 4 *(RES_FF_4)*		25	AN	Results free-entry field 4.
3054	Results Free Field 5 *(RES_FF_5)*		25	AN	Results free-entry field 5.
3055	Laboratory Result Notes *(RLNOTE)*	Valid Values	20	AN	The code identifying notes pertaining to analytical performance irregularities that apply to a single analyte.
3056	Retention Time *(RT)*		7	N	The retention time of a tentatively identified compound (TIC), reported in minutes (min).
3057	Run Number *(RUN_NUMBER)*		2	N	The numeric code distinguishing multiple or repeat analysis of a sample by the same method on the same day.
3058	Chain-of-Custody Sample ID *(SAMPID)*		25	AN	The unique identifier representing a sample, assigned by the consultant, as submitted to the laboratory on a chain-of-custody.
3059	Standard Reference Material *(SRM)*	Valid Values	12	AN	The code identifying the standard reference material used in the analysis.
3060	Subcontracted Laboratory *(SUB)*	Valid Values	4	AN	The code identifying the subcontracted laboratory.
3061	Laboratory Test Notes *(TLNOTE)*	Valid Values	20	AN	The code identifying notes pertaining to analytical performance irregularities that apply to the entire test.
3062	Units of Measure *(UNITS)*	Valid Values	10	AN	The units for the parameter value measurement.
3063	Upper Control Limit *(UPPERCL)*		4	N	The upper control limit of a quality control criterion.
3064	User Administrative ID *(USER_ADMIN_ID)*		25	AN	A user-defined administrative field.

HISTORY

1. New table 1 filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).

Chapter 2. Well and Site Information Electronic Reporting Data Dictionaries

1. GEO XY — Location Measurement

ID	*Element (Field Name)*	*Criteria*	*Length*	*Type*	*Definition*
3000	Global ID *(GLOBAL_ID)*	Valid Values	12	AN	The unique identifier for a regulated facility or site.
3001	Field Point Name *(FIELD_PT_NAME)*	Valid Values	15	AN	The unique name of the field location where the sample/field measurement has been collected.
3002	Field Point Class *(FIELD_PT_CLASS)*	Valid Values	5	AN	The code representing the type of field/survey point.
3200	XY Survey Date *(XY_SURVEY_DATE)*	MM/DD/YYYY	10	D	The date on which the latitude & longitude coordinates were measured.
3201	Latitude *(LATITUDE)*		15	N	The latitude (Y coordinate) of the survey point, measured in decimal degrees, and reported to 7 decimal points.
3202	Longitude *(LONGITUDE)*		15	N	The longitude (X coordinate) of the survey point, measured in decimal degrees, and reported to 7 decimal points.
3203	XY Survey Method *(XY_METHOD)*	Valid Values	5	AN	The code representing the survey method by which the latitude/longitude measurements were collected.
3204	XY Datum *(XY_DATUM)*	Valid Values	5	AN	The code representing the datum from which the latitude/longitude coordinates were determined.
3205	XY Accuracy Value *(XY_ACC_VAL)*		15	N	The accuracy range (+/-) of the latitude and longitude reported in centimeters at a 95% confidence interval.
3206	XY Survey Organization Name *(XY_SURVEY_ORG)*		35	AN	The name of the organization who collected the latitude/longitude coordinates.
3207	GPS Survey Equipment *(GPS_EQUIP_TYPE)*	Valid Values	100	AN	The name of the GPS unit used to determine the latitude/longitude coordinates.
3208	XY Survey Description *(XY_SURVEY_DESC)*	Narrative	240	AN	General description/information pertaining to the survey of latitude/longitude. May describe offset azimuth, distance and slope.

HISTORY

1. New chapter 2 and table 1 filed 11-16-2004; operative 12-16-2004 (Register 2004, No. 47).

2. GEO Z — Elevation Measurement

ID	*Element (Field Name)*	*Criteria*	*Length*	*Type*	*Definition*
3000	Global ID *(GLOBAL_ID)*	Valid Values	12	AN	The unique identifier for a regulated facility or site.
3001	Field Point Name *(FIELD_PT_NAME)*	Valid Values	15	AN	The unique name of the field location where the sample/field measurement has been collected.
3300	Elevation Survey Date *(ELEV_SURVEY_DATE)*	MM/DD/YYYY	10	D	The date on which the elevation was measured.
3301	Elevation *(ELEVATION)*		15	N	The elevation of the survey point measured to top of well casing to one hundredth of a foot between well locations within the site.
3302	Elevation Survey Method *(ELEV_METHOD)*	Valid Values	5	AN	The code representing the method by which the elevation measurement was collected.
3303	Elevation Datum *(ELEV_DATUM)*	Valid Values	5	AN	The code representing the datum from which the elevation was determined.
3304	Elevation Accuracy Value *(ELEV_ACC_VAL)*		15	N	The accuracy range (+/-) of the absolute elevation measurement reported in centimeters at the 95% confidence interval.
3305	Elevation Survey Organization Name *(ELEV_SURVEY_ORG)*		35	AN	The name of the organization collecting the elevation measurement.
3306	Riser Height *(RISER_HT)*		15	N	The measured distance from ground surface to top of well casing reported as a positive or negative value to one hundredth of a foot.
3307	Elevation Survey Description *(ELEV_DESC)*	Narrative	240	AN	General description/information pertaining to the survey.

HISTORY

1. New table 2 filed 11–16–2004; operative 12–16–2004 (Register 2004, No. 47).

3. GEO_WELL — Groundwater Well Measurement

ID	*Element (Field Name)*	*Criteria*	*Length*	*Type*	*Definition*
3000	Global ID *(GLOBAL_ID)*	Valid Values	12	AN	The unique identifier for a regulated facility or site.
3001	Field Point Name *(FIELD_PT_NAME)*	Valid Values	15	AN	The unique name of the field location where the sample/field measurement has been collected.
3400	Well Current Status *(STATUS)*	Valid Values	5	AN	The code representing the current status of well.
3401	GW Measurement Date *(GW_MEAS_DATE)*	MM/DD/YYYY	10	D	The date the depth to groundwater was measured.
3402	GW Measurement Time *(GW_MEAS_TIME)*	HHMM	4	AN	The time the depth to groundwater was measured, recorded using 24-hour military time.
3403	Depth to Floating Product *(DTFPROD)*		15	N	The measured depth from top of well casing to floating product surface reported to one hundredth of a foot.
3404	Depth to Groundwater Surface *(DTW)*		15	N	The measured depth from top of well casing to groundwater surface reported to one hundredth of a foot.
3306	Riser Height *(RISER_HT)*		15	N	The measured distance from ground surface to top of well casing reported as a positive or negative value to one hundredth of a foot.
3405	Total Depth *(TOT_DEPTH)*		15	N	Depth to bottom of well measured in the field during the sampling/ measurement event from top of well casing to "bottom" of well, reported to one hundredth of a foot.
3406	DTW Description *(GW_MEAS_DESC)*	Narrative	240	AN	General description/information pertaining to the groundwater measurement.

HISTORY

1. New table 3 filed 11-16-2004; operative 12-16-2004 (Register 2004, No. 47).

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Division 4. Office of Environmental Health Hazard Assessment

Chapter 1. Safe Drinking Water and Toxic Enforcement Act of 1986

Article 1. Preamble and Definitions

Preamble

(a) It is the practice of the Office of Environmental Health Hazard Assessment, as lead agency for implementing the Safe Drinking Water and Toxic Enforcement Act of 1986 (Health and Safety Code Section 25249.5 et seq.) to answer inquiries of individuals and organizations, whenever appropriate, as to the application of the Act to their activities. One of the lead agency's functions is to issue public rulings on the requirements of the Act.

(b) It is the practice of the lead agency to respond to inquiries concerning the Act as expeditiously as possible. Requests for consideration of an interpretive guideline, safe use determination or information letter ahead of its regular order or by a specified date will be considered as circumstances warrant. However, persons or organizations making such requests should consider the time necessary to comply with public notice and hearing requirements specified in these procedures and any additional delay that may result from compliance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), if necessary prior to issuing a guideline or determination. Therefore, no assurance can be given that any request will be processed by the time requested.

§ 25102. Definitions.

The following definitions shall apply to the regulations contained in this chapter:

(a) The "Act" means the Safe Drinking Water and Toxic Enforcement Act of 1986 (Health and Safety Code Section 25249.5 et seq.) which was originally adopted by California voters as Proposition65 on November 4, 1986.

(b) "Certified emergency medical personnel" includes emergency medical technicians I and II and emergency medical technician–paramedics as those terms are defined in Health and Safety Code Sections 1797.80, 1797.82, and 1797.84 (1980).

(c) "Committees" means the Carcinogen Identification Committee and the Developmental and Reproductive Toxicant (DART) Identification Committee of the Office of Environmental Health Hazard Assessment's Science Advisory Board.

(1) The members of the "Carcinogen Identification Committee" shall be the "state's qualified experts" as the term is used in Section 25249.8 of the Act with respect to those functions identified in subsection (a) of Section 25305.

(2) The members of the "Developmental and Reproductive Toxicant (DART) Identification Committee," hereafter referred to as the "DART Identification Committee" shall be the "state's qualified experts" as the term is used in Section 25249.8 of the Act with respect to those functions identified in subsection (b) of Section 25305.

(d) "Dental personnel" includes, dentists and dental auxiliary staff as that term is defined in Business and Professions Code Section 1741(e) (1974).

(e) "Director" means the Director of the Office of Environmental Health Hazard Assessment.

(f) "Discharge or release into water or onto or into land" includes a discharge or release to air that is directly and immediately deposited into water or onto land. Except as provided in paragraphs (1) and (2) this subsection, "discharge or release into water or onto or into land" includes the direct or indirect transfer by any person in the course of doing business of any listed chemical to any person within the meaning of Section 25249.11(a) of the Act for the purpose of discharging or releasing the chemical to land or water in a manner which, if committed by the transferor, would violate Section 25249.5 of the Act.

(1) "Discharge or release into water or onto or into land" does not include the sale, exchange or other transfer of a listed chemical to a solid waste disposal facility as defined in Public Resources Code Sections 40121 and 40191, or a hazardous waste facility as defined in Health and Safety Code Section 25117.1 provided that the disposal to such facility complies with all applicable state and federal statutes, rules, regulations, permits, requirements and orders. "Sale, exchange or other transfer," as used in this paragraph, does not include disposal to a facility owned or operated by the transferor.

(2) "Discharge or release into water or onto or into land" does not include the sale, exchange or other transfer of a listed chemical to any treatment works as defined in 33 United States Code Section 1292 provided that the discharge or release to such treatment works complies with all applicable standards and limitations imposed, and permits required, under federal law or an approved state program. "Sale, exchange or other transfer," as used in this paragraph, does not include disposal to a facility owned or operated by the transferor.

(g) "Emergency or urgent medical or dental care" means immediate care administered for the alleviation of severe pain, or immediate diagnosis and treatment of unforeseeable medical or dental conditions, which, if not immediately diagnosed or treated, would lead to serious disability or death.

(h) "Employee" shall have the same meaning as it does in Unemployment Insurance Code Section 621 and in Labor Code Section 3351. Generally, and without limiting the applicability of the definitions in these two statutes, this means that an employee is a person who performs services for remuneration under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed.

In computing whether a person employs ten or fewer employees in his business, all full–time and part–time employees on the date on which the discharge, release or exposure occurs must be counted. Thus, the prohibitions on discharge or release and exposures to certain chemicals will apply to any person who has ten or more full–time or part–time employees on the date in question.

(i) "Expose" means to cause to ingest, inhale, contact via body surfaces or otherwise come into contact with a listed chemical. An individual may come into contact with a listed chemical through water, air, food, consumer products and any other environmental exposure as well as occupational exposures.

(j) "General public knowledge" means knowledge which has been disseminated to the general public, including information in newspapers of general circulation or radio or television reports in the geographic area affected by the discharge. In order to demonstrate general public knowledge, it shall not be necessary to prove that any members of the public have actually acquired such knowledge but only that the information has been disseminated.

(k) "In the course of doing business" means any act or omission, whether or not for profit, or any act or omission of any employee which furthers the purpose or operation of the business, or which is expressly or implicitly authorized within the meaning of Section 25249.6 of the Act to a listed chemical, except:

(1) as excluded by subdivision (b) of Section 25249.11 of the Act; or

(2) when caused by acts of war or grave and irresistible natural disasters such that no reasonable amount of resistance or advance preparation would be sufficient to avoid the discharge, release or exposure.

(3) for the personal use, consumption or production of listed chemicals by an employee on the business premises or while performing activities for the business, unless the employer knows or should know of such use, consumption or production and knows or should know that such use, consumption or production will expose other individuals.

(*l*) "Information letter" means a statement issued by the lead agency which does no more than call attention to an established interpretation of the Act or a related principle, without applying it to a specific set of facts.

(m) "Interpretive guideline" means a draft regulatory proposal which has been published for the information, comment, and guidance of California businesses, law enforcement agencies and others concerned.

(n) "Knowingly" refers only to knowledge of the fact that a discharge of, release of, or exposure to a chemical listed pursuant to Section 25249.8(a) of the Act is occurring. No knowledge that the discharge, release or exposure is unlawful is required. However, a person in the course of doing business who, through misfortune or accident and without evil design, intention or negligence, commits an act or omits to do something which results in a discharge, release or exposure has not violated Section 25249.5 or 25249.6 of the Act.

(o) "Lead agency" means the Office of Environmental Health Hazard Assessment as designated by the Governor in Executive Order W-15-91, dated July 17, 1991.

(p) "Listed chemical" means a chemical listed pursuant to Section 25249.8(a) of the Act.

(q) "Medical personnel" includes, physicians, nurse practitioners, physician assistants, and nurses.

(r) "Probably will pass into any source of drinking water" means a discharge or release which more likely than not will pass into any source of drinking water.

(s) "Safe use determination" means a written statement issued by the lead agency to a person affected by the Act or an authorized representative which interprets and applies the Act to a specific set of facts.

(t) "State's qualified experts" as the term is used in Section 25249.8 of the Act includes the Carcinogen Identification Committee and the DART Identification Committee.

(u) "Substantial injury" means a real and immediate physical injury or a resulting adverse physical condition of a substantial nature to one or more persons.

(v) "Threatened illegal discharge" means the creation of a condition or the taking of an action which is intended to or will foreseeably create a substantial probability that an illegal discharge will occur.

(w) "Water" includes both surface and ground water.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25180.7, 25249.5, 25249.6, 25249.8, 25249.9, 25249.10, 25249.11 and 25249.12, Health and Safety Code.

HISTORY

1. New section filed 2-24-88; operative 2-26-88 (Register 88, No. 11).
2. Amendment of article heading, preamble, section and NOTE filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).
3. Change without regulatory effect renumbering title 22, division 2, subdivision 1, chapter 3 (articles 1-9, sections 12000-14000), article 1 (sections 12102-12104) to title 27, division 4, chapter 1 (articles 1-9, sections 25102-27001), article 1 (sections 25102-25104) and renumbering title 22, section 12102 to title 27, section 25102, including amendment of subsections (c)(1)-(2), filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25103. Interpretive Guideline Request. [Repealed]

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Section 25249.12, Health and Safety Code.

HISTORY

1. New section filed 2-24-88; operative 2-26-88 (Register 88, No. 11).
2. Repealer filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).
3. Change without regulatory effect renumbering title 22, section 12103 to title 27, section 25103 filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25104. Safe Use Determinations. [Repealed]

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.10 and 25249.12, Health and Safety Code.

HISTORY

1. New section filed 2-24-88; operative 2-26-88 (Register 88, No. 11).
2. Repealer filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).
3. Change without regulatory effect renumbering title 22, section 12104 to title 27, section 25104 filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

Article 2. Guideline and Safe Use Determination Procedures

§ 25201. Definitions. [Repealed]

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25180.7, 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

HISTORY

1. Amendment of subsection (e) and new subsections (j) and (k) refiled 2-21-89 as an emergency; operative 2-24-89 (Register 89, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-26-89. For prior history, see Register 88, No. 47.
2. Amendment of subsection (e) and new subsections (j) and (k) refiled 6-19-89 as an emergency; operative 6-26-89 (Register 89, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10-24-89.
3. Certificate of Compliance as to 6-19-89 order transmitted to OAL 10-20-89 and filed 11-20-89 (Register 89, No. 48).
4. New subsections (*l*)-(o) filed 8-27-2002; operative 9-26-2002 (Register 2002, No. 35).
5. Amendment of article heading and repealer of section filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).
6. Change without regulatory effect renumbering title 22, division 2, subdivision 1, chapter 3, article 2 (sections 12201-12204) to title 27, division 4, chapter 1, article 2 (sections 25201-25204) and renumbering title 22, section 12201 to title 27, section 25201 filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25203. Interpretive Guideline Request.

(a) Any interested person may request the lead agency to issue an interpretive guideline concerning any subject related to the Act. A request for interpretive guideline shall contain:

(1) A clear and concise description of the substance or nature of the guideline requested; and

(2) A description of the reason for the request.

(b) Upon receipt of a request for interpretive guideline, the lead agency shall notify the requester in writing of the receipt and provide an estimate of the time required to determine whether an interpretive guideline will be proposed or adopted. Except where the proposed guideline will be considered by the appropriate committee, a decision on the request will normally be made within 60 days. Where the proposed guideline is considered by the appropriate Committee, a decision on the request will normally be made not later than 30 days after the guideline is considered by such Committee.

(c) When appropriate, in the discretion of the lead agency, a request for interpretive guideline may be treated as a request for a safe use determination under these procedures, or the lead agency may issue an information letter to the requester.

(d) All interpretive guidelines issued by the lead agency will be numbered and published either by the lead agency or in the California Regulatory Notice Register.

(e) Within a reasonable time after an interpretive guideline is published pursuant to paragraph (d), the lead agency may rescind the interpretive guideline, propose that it be formally adopted as originally published, or modify it and either republish it as an interpretive guideline for further comment or propose formal regulatory adoption of the modified interpretive guideline. Nothing in this section shall preclude the lead agency from making proposals for formal regulatory adoption which have not been published as interpretive guidelines.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Section 25249.12, Health and Safety Code.

HISTORY

1. New section filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).
2. Change without regulatory effect renumbering title 22, section 12203 to title 27, section 25203 filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25204. Safe Use Determination.

(a) As a part of its overall responsibility to provide guidance to persons or organizations that are or may be affected by the Act, the lead agency will consider the applicability of the Act or the exemptions specified in

the Act to business activities or prospective business activities. A safe use determination issued by the lead agency represents the state's best judgment concerning the application of the Act to the particular facts presented in the request. A safe use determination is advisory only. It does not affect the authority of the Attorney General, district attorneys, certain city attorneys and any other person in the public interest to prosecute violations of the Act pursuant to Section 25249.7 of the Act nor does it affect the responsibility of courts to interpret the Act and apply the provisions of the Act to particular facts.

(b) Safe use determinations will not be issued under the following circumstances:

(1) Where the subject matter of a request for safe use determination is at issue in a civil or criminal case pending in any court except when a request has been received and accepted in writing by the lead agency before:

(A) service of a notice pursuant to Section 25903(c) for actions subject to Section 25249.7(d) of the Act unless the safe use determination request is ultimately accepted and determined to be complete as submitted prior to the service of the notice; or

(B) filing of a complaint for actions subject to Section 25249.7(c) of the Act unless the safe use determination request is ultimately accepted and determined to be complete as submitted prior to the filing of the complaint. For purposes of this section, a case is not pending after entry of judgment even though the court retains jurisdiction over the matter for purposes of injunctive relief, supervision of compliance with the court's orders or any other purpose. Nor is a case pending simply because a settlement entered as a final judgment is subject to modification or other "reopeners."

(2) If the individual or organization requesting the safe use determination receives a notice pursuant to Section 25903(c) or a complaint is filed pursuant to Section 25249.7(c) of the Act before receiving a written acceptance from the lead agency of its request, the individual or organization shall notify the lead agency's Deputy Director for Scientific Affairs in writing within 5 business days of receiving the notice or filing of the complaint. Upon notification, the lead agency shall terminate the safe use determination process and return all data and information submitted by the requester observing full confidentiality unless the safe use determination request is ultimately accepted and determined to be complete as submitted prior to the service of the notice or filing of the complaint, whichever is applicable. No refund of fees imposed or costs incurred by the lead agency prior to such termination will be made.

(3) Where the individual or organization requesting the safe use determination is not directly required to enforce or comply with the provisions of the Act provided, however, when two or more businesses which are members of the same trade association share a business practice which may be the subject matter of a request for a safe use determination, the request may be made by the trade association on behalf of such members.

(4) Where the request for determination concerns compliance with laws other than the Act, or with regulations, permits, requirements or orders of any federal, state or local agency. For example, questions concerning whether chemical discharges comply with the Water Code, state regulations and waste discharge requirements should be addressed to the appropriate Regional Water Quality Control Board.

(5) Where the request for determination does not involve a current or planned activity of the requester. Safe use determination will not be issued concerning hypothetical situations or on each of several alternative plans in a proposed activity.

(6) Where, in the discretion of the lead agency, issuance of a safe use determination will not further the public interest, or is otherwise inappropriate under the circumstances presented in or related to a particular request for safe use determination. For example, where the subject matter of the request is at issue in an administrative proceeding before a government agency that began before the request for a safe use determination was received and accepted in writing by the lead agency or does not concern a chemical listed pursuant to Section 25249.8 of the Act.

(c) A request for a safe use determination shall be clearly marked "Official Information Pursuant to Evidence Code Section 1040" and submitted in writing to the lead agency's Deputy Director for Scientific Affairs. Except as provided in paragraph (2) of subsection (d), the request for safe use determination is deemed official information pursuant to Evidence Code Section 1040. The request shall contain all of the following:

(1) A complete statement of all relevant facts related to the activity for which the safe use determination is requested. Such facts include the names and addresses of all interested parties, a description of the business reason for the activity and a carefully detailed description of the activity.

(2) True copies of any contracts, agreements, instruments, reports, analyses or other documents directly related to the activity for which the safe use determination is requested and to the applicability of the Act to the activity.

(3) A clear statement of the issue or issues on which a safe use determination is sought.

(4) If the determination request includes references to a specific chemical, the request should include the chemical name and the Chemical Abstract Services (CAS) Registry Number, if applicable.

(5) If the activity for which the safe use determination is sought is only one step of a larger integrated process, the description of the activity shall include a description of the entire process.

(6) If the requester is contending for a particular result in the determination, the request shall include an explanation of the grounds for the contention together with an identification of any relevant authorities which support such view.

(7) If the request for safe use determination contains any information which the requester claims should not be available for public inspection under the Public Records Act (Government Code Section 6250 et seq.), the request shall specifically identify the information and the basis for the claim.

(A) If the request for determination contains information which the requester claims should not be available for public inspection, it shall be accompanied by a copy of the request and any supporting documents on which shall be indicated, by the use of brackets, the material which the requester contends should be deleted.

(B) All requests for safe use determination shall be open for public inspection except as otherwise specifically identified by the requester under this section. If the lead agency determines that information which the requester claims should not be available for public inspection must be released to the public under the Public Records Act (Government Code Section 6250 et seq.), it will promptly notify the requester by telephone or in writing of this determination and provide a reasonable opportunity for the requester to submit additional justification for the claim or to contest the determination in an appropriate proceeding.

(8) If the requester claims that fees or other charges for safe use determination should be waived, the request shall include an explanation of the basis for the claim.

(9) A statement concerning whether to the best of the requester's knowledge the subject matter of the request is:

(A) An issue in a civil or criminal case pending in any court.

(B) An issue in any administrative proceeding pending before a federal, state or local agency.

(C) The subject of a notice of violation to the Attorney General, a district attorney or a city attorney as described in Section 25249.7(d) of the Act.

(10) The signature of the person making the request for determination. Where the request is made by an authorized representative for an individual or organization, the request shall indicate the source of the authority to make the request.

(d)(1) Each request for a safe use determination shall be accompanied by a nonrefundable processing fee of $500. In addition, the requester shall be assessed a charge in the amount of any costs to the lead agency or other state agency which are necessarily incurred in considering the request and which exceed $500. Such additional assessment shall be

made only after the requester has been provided an estimate of the amount, has elected to proceed with the request for safe use determination and has agreed to pay the additional assessment. All or part of the processing fee or other charges assessed pursuant to this section may be waived if the lead agency determines that payment of the fee would present a hardship to the requester or that it is otherwise in the public interest to proceed with the request without payment of such fees or charges.

(2) The lead agency will not publicly disclose the existence, data, or information in a request for a safe use determination until a written acceptance of the request is issued as specified in subsection (f). Upon issuance of a written acceptance by the lead agency, the request shall no longer be regarded as "official information" and shall be subject to disclosure upon request. If a request is withdrawn prior to the issuance of written acceptance of the request, all data and information submitted by the requester will be returned to the requester observing full confidentiality. No refund of fees imposed or costs incurred by the lead agency for a withdrawn request will be made.

(e) If during the initial review of the request for safe use determination, the lead agency requests essential information and it is not received within 30 days, the request shall be closed and all data and information submitted by the requester thus far will be returned to the requester observing full confidentiality. No refund of fees imposed or costs incurred by the lead agency for a closed request will be made. If the information requested by the lead agency is received after the request is closed, the request will be reopened and treated as a new request as of the date of receipt.

(f) In the case of a request for safe use determination that appears to comply with these procedures, the lead agency shall issue a written acceptance of the request. At the same time, a public notice of the acceptance of the request will be submitted for publication in the California Regulatory Notice Register and sent to interested persons. The public notice will include the text or a summary of the request as appropriate. It will advise interested persons that they may comment on the request in writing or in person at a public hearing which shall be held on a date not less than 30 days after the notice is published.

(g) At any time while a request for a safe use determination is pending, the lead agency or any other state agency that is considering the request may ask for any additional information or explanation from the requester as necessary to complete a consideration of the request.

(h) After considering the request, any comments of the public received in writing or at the public hearing, and the comments of any other state agencies that have considered the request, the lead agency shall in response to the request:

(1) Issue a safe use determination.

(2) Decline to issue a safe use determination because the facts are insufficient to clearly establish the basis for the requested determination or for any other reason.

(3) Issue an information letter to the requester.

(4) Issue an interpretive guideline.

(i) The lead agency's response to the request shall be sent to the requester and the text or a summary of the response shall be published in the California Regulatory Notice Register and sent to interested persons, including any person who submitted comments on the request.

(j) Safe use determinations issued by the lead agency are limited to the particular facts on which they are based and they reflect the lead agency's view of the best interpretation of the Act and the state of scientific knowledge at the time they are issued. Whenever the issuance of a safe use determination requires the performance by a state agency of a risk assessment of the carcinogenicity or reproductive toxicity of a chemical, such assessment shall be performed pursuant to the methodologies adopted by the lead agency. A safe use determination found to be in error or not in accord with the best interpretation of the Act or the current state of scientific knowledge may be modified or revoked. Modification or revocation of a safe use determination may be effected by a notice to the individual or organization that requested the ruling along with notice in the California Regulatory Notice Register or by the issuance of an interpretive guideline.

(k) A safe use determination shall be issued to a particular individual or organization with respect to the application of particular provisions of the act to particular facts. Determinations are not intended to affect other individuals or organizations, or other activities of the requester.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5–25249.13, Health and Safety Code.

HISTORY

1. New section filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
2. Amendment of section and NOTE filed 5–22–2003; operative 6–21–2003 (Register 2003, No. 21).
3. Change without regulatory effect renumbering title 22, section 12204 to title 27, section 25204, including amendment of subsections (b)(1)(A) and (b)(2), filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

Article 3. Science Advisory Board: Carcinogen Identification Committee and Developmental and Reproductive Toxicant (DART) Identification Committee

§ 25301. Definitions. [Repealed]

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.12 and 25249.8, Health and Safety Code.

HISTORY

1. New section filed 2–24–88; operative 2–26–88 (Register 88, No. 11).
2. Amendment of article heading, subsections (a) and (c), and adoption of subsection (d) filed 11–1–93 as an emergency; operative 11–1–93 (Register 93, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–1–94 or emergency language will be repealed by operation of law on the following day.
3. Amendment of article heading, subsections (a) and (c), and adoption of subsection (d) refiled 2–25–94 as an emergency; operative 2–25–94 (Register 94, No. 8). A Certificate of Compliance must be transmitted to OAL by 6–27–94 or emergency language will be repealed by operation of law on the following day.
4. Amendment of article heading, subsections (a) and (c), and adoption of subsection (d) refiled 6–16–94 as an emergency; operative 6–27–94 (Register 94, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–25–94 or emergency language will be repealed by operation of law on the following day.
5. Amendment of article heading, subsections (a) and (c), and adoption of subsection (d) refiled 10–24–94 as an emergency; operative 10–25–94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–22–95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10–24–94 order including amendment of Article 3 heading and subsection (a) and new subsections (a)(1)–(2) transmitted to OAL 2–22–95 and filed 4–5–95 (Register 95, No. 14).
7. Repealer filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
8. Change without regulatory effect renumbering title 22, division 2, subdivision 1, chapter 3, article 3 (sections 12301–12306) to title 27, division 4, chapter 1, article 3 (sections 25301–25306) and renumbering title 22, section 12301 to title 27, section 25301 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25302. Science Advisory Board.

(a) There are created in the lead agency two Committees of the Science Advisory Board, the Carcinogen Identification Committee and the DART Identification Committee defined in paragraphs (1) and (2), respectively, of subsection (b) of Section 25102, to advise and assist the Governor and the Director in the implementation of Section 25249.8 of the Act.

(b)(1) The Carcinogen Identification Committee shall be composed of no less than seven (7) members and no greater than eleven (11) members, and shall include experts from among the following areas of specialization: epidemiology, oncology, pathology, medicine, public health, biostatistics, biology, toxicology, and related fields.

(2) The DART Identification Committee shall be composed of no less than seven (7) members and no greater than eleven (11) members, and shall include experts from among the following areas of specialization: epidemiology, developmental toxicology, reproductive toxicology, teratology, medicine, public health, biostatistics, biology, toxicology, and related fields.

(3) The members of the Committees shall be appointed by the Governor and shall serve at the pleasure of the Governor.

The terms shall be for a period of four years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she succeeds. Members of each Committee shall be eligible for reappointment.

(c) The Carcinogen Identification Committee and the DART Identification Committee shall meet not less than once in any calendar year. The Governor shall designate from among the members of each Committee respective Chairpersons who will call and preside over Committee meetings, and shall designate an Executive Secretary who shall be a state employee who has expertise in one or more of the areas of specialization listed in subsection (b). Each Chairperson, with the consent of the other Committee members, shall designate from among the respective Committee members such subcommittees as may be appropriate in fully discharging the responsibilities of that Committee.

(d)(1) Except as otherwise expressly authorized by statute, all meetings of the Committees, and all subcommittee meetings shall be open to the public and convened only after reasonable public notice of the meeting, including the date, time, location and agenda of items of business to be transacted or discussed, has been provided.

(2) All correspondence to or from the Committees, or any subcommittee shall be available for public inspection as provided in the Public Records Act (Government Code Section 6250 et seq.).

(e) Members of the Committees may be asked to provide advice and counsel both at formally convened Committee meetings and other subcommittee meetings and individually in response to written materials submitted to them by the lead agency, the Executive Secretary, or the Governor. Each of the two Committees shall act as a body in making recommendations to the Governor or the lead agency.

(f) A quorum of the Committee shall be a majority of the members appointed to the Committee. An affirmative vote of the majority of the appointed members shall be required for any action of each Committee. A vacancy on a Committee shall not impair the right of the remaining members to exercise all powers of the Committee.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Section 25249.8, Health and Safety Code.

HISTORY

1. New section filed 2-24-88; operative 2-26-88 (Register 88, No. 11).
2. Amendment filed 11-1-93 as an emergency; operative 11-1-93 (Register 93, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-1-94 or emergency language will be repealed by operation of law on the following day.
3. Amendment refiled 2-25-94 as an emergency; operative 2-25-94 (Register 94, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-27-94 or emergency language will be repealed by operation of law on the following day.
4. Amendment refiled 6-16-94 as an emergency; operative 6-27-94 (Register 94, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-25-94 or emergency language will be repealed by operation of law on the following day.
5. Amendment refiled 10-24-94 as an emergency; operative 10-25-94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-22-95 or emergency language will be repealed by operation of law on the following day.
6. Editorial correction of section heading and subsections (d)(1) and (2) (Register 94, No. 43).
7. Certificate of Compliance as to 10-24-94 order including amendment of section transmitted to OAL 2-22-95 and filed 4-5-95 (Register 95, No. 14).
8. Amendment filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).
9. Change without regulatory effect renumbering title 22, section 12302 to title 27, section 25302, including amendment of subsection (a), filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25303. Compensation.

Members of the Committees shall be entitled to reimbursement for actual and necessary expenses incurred while attending meetings or otherwise carrying out the duties of their respective committees. In addition, members of the Committees shall be entitled to compensation for time spent attending Committee meetings and on the other actual and necessary work of the Committee as determined by the lead agency.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Section 25249.8, Health and Safety Code.

HISTORY

1. New section filed 2-24-88; operative 2-26-88 (Register 88, No. 11).
2. Amendment filed 11-1-93 as an emergency; operative 11-1-93 (Register 93, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-1-94 or emergency language will be repealed by operation of law on the following day.
3. Amendment refiled 2-25-94 as an emergency; operative 2-25-94 (Register 94, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-27-94 or emergency language will be repealed by operation of law on the following day.
4. Amendment refiled 6-16-94 as an emergency; operative 6-27-94 (Register 94, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-25-94 or emergency language will be repealed by operation of law on the following day.
5. Amendment refiled 10-24-94 as an emergency; operative 10-25-94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-22-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10-24-94 order including amendment of section transmitted to OAL 2-22-95 and filed 4-5-95 (Register 95, No. 14).
7. Change without regulatory effect renumbering title 22, section 12303 to title 27, section 25303 filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25304. Financial Disclosure.

Upon appointment and annually thereafter, Committee members shall, consistent with the Political Reform Act of 1974 commencing with Sections 81000 through 91015 of the Government Code and Title 2 California Code of Regulations, Division 6, Chapters 1 through 10, make a public disclosure on forms provided of investments in, income from or business positions in any partnership, corporation or other entity that imports, manufactures, distributes, sells, buys or uses chemicals that are or may be considered carcinogens or reproductive toxicants. Such disclosure made upon appointment shall cover the twelve-month period immediately prior to the date of appointment. Committee members shall, in addition to the requirements of Sections 81000 through 91015 of the Government Code and Title 2 CCR, Division 6, Chapters 1 through 10, also provide a description of funding sources for all professional activities undertaken during the twelve months immediately prior to their appointment, and annually thereafter during their service on the Committee. In order to vote on an official action of a Committee, Committee members must be in compliance with Sections 81000 through 91015 of the Government Code and Title 2 CCR, Division 6, Chapters 1 through 10.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Section 25249.8, Health and Safety Code.

HISTORY

1. New section filed 2-24-88; operative 2-26-88 (Register 88, No. 11).
2. Amendment filed 11-1-93 as an emergency; operative 11-1-93 (Register 93, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-1-94 or emergency language will be repealed by operation of law on the following day.
3. Amendment refiled 2-25-94 as an emergency; operative 2-25-94 (Register 94, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-27-94 or emergency language will be repealed by operation of law on the following day.
4. Amendment refiled 6-16-94 as an emergency; operative 6-27-94 (Register 94, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-25-94 or emergency language will be repealed by operation of law on the following day.
5. Amendment refiled 10-24-94 as an emergency; operative 10-25-94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-22-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10-24-94 order including amendment of section transmitted to OAL 2-22-95 and filed 4-5-95 (Register 95, No. 14).
7. Amendment filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).
8. Change without regulatory effect renumbering title 22, section 12304 to title 27, section 25304 filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25305. Power and Duties.

(a) As an advisory body to the Governor and the lead agency, the Carcinogen Identification Committee may undertake the following activities:

(1) Render an opinion, pursuant to subdivision (b) of Section 25249.8 of the Act, as to whether specific chemicals have been clearly shown, through scientifically valid testing according to generally accepted principles, to cause cancer.

(2) Identify bodies which are considered to be authoritative and which have formally identified chemicals as causing cancer.

(3) Identify specific chemicals that are required by state or federal law to have been tested for potential to cause cancer but which have not been adequately tested.

(4) Review or propose standards and procedures for determining carcinogenicity of chemicals.

(5) Review or propose standards, procedures and definitions related to the implementation, administration or interpretation of the Act in support of the duties specified in the Section 25249.8 of the Act and upon request by the lead agency.

(b) As an advisory body to the Governor and the lead agency, the DART Identification Committee may undertake the following activities:

(1) Render an opinion, pursuant to subdivision (b) of Section 25249.8 of the Act, as to whether specific chemicals have been clearly shown, through scientifically valid testing according to generally accepted principles, to cause reproductive toxicity.

(2) Identify bodies which are considered to be authoritative and which have formally identified chemicals as causing reproductive toxicity.

(3) Identify specific chemicals that are required by state or federal law to have been tested for potential to cause reproductive toxicity but which have not been adequately tested.

(4) Review or propose standards and procedures for determining reproductive toxicity of chemicals.

(5) Review or propose standards, procedures and definitions related to the implementation, administration or interpretation of the Act in support of the duties specified in Section 25249.8 of the Act and upon request by the lead agency.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Section 25249.8, Health and Safety Code.

HISTORY

1. New section filed 2–24–88; operative 2–26–88 (Register 88, No. 11).
2. Amendment filed 11–1–93 as an emergency; operative 11–1–93 (Register 93, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–1–94 or emergency language will be repealed by operation of law on the following day.
3. Amendment refiled 2–25–94 as an emergency; operative 2–25–94 (Register 94, No. 8). A Certificate of Compliance must be transmitted to OAL by 6–27–94 or emergency language will be repealed by operation of law on the following day.
4. Amendment refiled 6–16–94 as an emergency; operative 6–27–94 (Register 94, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–25–94 or emergency language will be repealed by operation of law on the following day.
5. Amendment refiled 10–24–94 as an emergency; operative 10–25–94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–22–95 or emergency language will be repealed by operation of law on the following day.
6. Editorial correction of subsection (b)(2) (Register 94, No. 43).
7. Certificate of Compliance as to 10–24–94 order including amendment of subsections (a)(1), (a)(5)–(b)(1), and (b)(5) transmitted to OAL 2–22–95 and filed 4–5–95 (Register 95, No. 14).
8. Amendment of section heading and section filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
9. Change without regulatory effect renumbering title 22, section 12305 to title 27, section 25305 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25306. Chemicals Formally Identified by Authoritative Bodies.

(a) Pursuant to section 25249.8(b) of the Act, a chemical is known to the state to cause cancer or reproductive toxicity if the lead agency determines that an authoritative body has formally identified the chemical as causing cancer or reproductive toxicity, as specified in this section.

(b) A "body considered to be authoritative" is an agency or formally organized program or group which utilizes one of the methods set forth in subsection (d), for the identification of chemicals, and which the Carcinogen Identification Committee has identified as having expertise in the identification of chemicals as causing cancer or the DART Identification Committee has identified as having expertise in the identification of chemicals as causing reproductive toxicity. For purposes of this section, "authoritative body" means either a "body considered to be authoritative" in the identification of chemicals as causing cancer by the Carcinogen Identification Committee or a "body considered to be authoritative" in the identification of chemicals as causing reproductive toxicity by the DART Identification Committee. The Carcinogen Identification Committee and the DART Identification Committee shall have the authority to revoke or rescind any determination that a body is authoritative on the grounds that the respective Committee no longer considers the body to have expertise in the identification of chemicals as causing cancer or reproductive toxicity, respectively, in which case chemicals listed pursuant to this section prior to the effective date of the revocation shall remain on the list. Nothing in this section shall be construed to limit or otherwise interfere with such authority.

(c) The lead agency shall determine which chemicals have been formally identified by an authoritative body as causing cancer or reproductive toxicity.

(d) For purposes of this section a chemical is "formally identified" by an authoritative body when the lead agency determines that:

(1) the chemical has been included on a list of chemicals causing cancer or reproductive toxicity issued by the authoritative body; or is the subject of a report which is published by the authoritative body and which concludes that the chemical causes cancer or reproductive toxicity; or has otherwise been identified as causing cancer or reproductive toxicity by the authoritative body in a document that indicates that such identification is a final action; and

(2) the list, report, or document specifically and accurately identifies the chemical, and has been:

(A) Reviewed by an advisory committee in a public meeting, if a public meeting is required, or

(B) Made subject to public review and comment prior to its issuance, or

(C) Published by the authoritative body in a publication, such as, but not limited to, the federal register for an authoritative body which is a federal agency, or

(D) Signed, where required, by the chief administrative officer of the authoritative body or a designee, or

(E) Adopted as a final rule by the authoritative body, or

(F) Otherwise set forth in an official document utilized by the authoritative body for regulatory purposes.

(e) For purposes of this section, "as causing cancer" means that either of the following criteria has been satisfied:

(1) Sufficient evidence of carcinogenicity exists from studies in humans. For purposes of this paragraph, "sufficient evidence" means studies in humans indicate that there is a causal relationship between the chemical and cancer.

(2) Sufficient evidence of carcinogenicity exists from studies in experimental animals. For purposes of this paragraph, "sufficient evidence" means studies in experimental animals indicate that there is an increased incidence of malignant tumors or combined malignant and benign tumors in multiple species or strains, in multiple experiments (e.g., with different routes of administration or using different dose levels), or, to an unusual degree, in a single experiment with regard to high incidence, site or type of tumor, or age at onset.

(f) The lead agency shall find that a chemical does not satisfy the definition of "as causing cancer" if scientifically valid data which were not considered by the authoritative body clearly establish that the chemical

does not satisfy the criteria of subsection (e), paragraph (1) or subsection (e), paragraph (2).

(g) For purposes of this section, "as causing reproductive toxicity" means that either of the following criteria have been satisfied:

(1) Studies in humans indicate that there is a causal relationship between the chemical and reproductive toxicity, or

(2) Studies in experimental animals indicate that there are sufficient data, taking into account the adequacy of the experimental design and other parameters such as, but not limited to, route of administration, frequency and duration of exposure, numbers of test animals, choice of species, choice of dosage levels, and consideration of maternal toxicity, indicating that an association between adverse reproductive effects in humans and the toxic agent in question is biologically plausible.

(h) The lead agency shall find that a chemical does not satisfy the definition of "as causing reproductive toxicity" if scientifically valid data which were not considered by the authoritative body clearly establish that the chemical does not satisfy the criteria of subsection (g), paragraph (1) or subsection (g), paragraph (2).

(i) At least 60 days prior to adding a chemical determined to have been formally identified by an authoritative body as causing cancer or reproductive toxicity to the list of chemicals known to the state to cause cancer or reproductive toxicity, the lead agency shall cause to be published in the California Regulatory Notice Register a notice identifying the authoritative body and the chemical, and stating the lead agency's intention to cause the chemical to be added to the list. Copies of the notice shall be provided to the Carcinogen Identification Committee or the DART Identification Committee, as appropriate, to permit the appropriate Committee at least 30 days to review and comment on the proposed action. Within 30 days following the publication of the notice, interested parties, including any member of the appropriate Committee, shall submit to the lead agency their written objections to the addition of the chemical to the list of chemicals known to the state to cause cancer or reproductive toxicity, along with any supporting documentation. Objections shall be made on the basis that there is no substantial evidence that the criteria identified in subsection (e) or in subsection (g) have been satisfied. The lead agency shall review such objections. If the lead agency finds that there is no substantial evidence that the criteria identified in subsection (e) or in subsection (g) have been satisfied, the lead agency shall refer the chemical to the appropriate Committee to determine whether, in the Committee's opinion, the chemical has been clearly shown through scientifically valid testing according to generally accepted principles to cause cancer or reproductive toxicity.

(j) Subsequent to the addition of a chemical determined to have been formally identified by an authoritative body as causing cancer or reproductive toxicity to the list of chemicals known to the state to cause cancer or reproductive toxicity, the lead agency shall reconsider its determination that the chemical has been formally identified as causing cancer or reproductive toxicity if the lead agency finds:

(1) there is no substantial evidence that the criteria identified in subsection (e) or subsection (g) have been satisfied, or

(2) the chemical is no longer identified as causing cancer or reproductive toxicity by the authoritative body.

Reconsideration may be initiated by the lead agency on its own motion, or on a request from an interested party, including any member of the appropriate Committee. The lead agency shall refer chemicals under reconsideration pursuant to this subsection to the appropriate Committee for a recommendation concerning whether the chemical should continue to be included on the list of chemicals known to the state to cause cancer or reproductive toxicity. Pending such reconsideration, the chemical shall remain on the list.

(k) The Carcinogen Identification Committee or the DART Identification Committee may condition any determination that a body is considered to be authoritative upon the subsequent application of the controls set forth in this section to the determination of which chemicals have been formally identified by the body as causing cancer or reproductive toxicity. In the event that this section or any portion thereof is found to be invalid by any court of competent jurisdiction, the Carcinogen Identification Committee or the DART Identification Committee may determine that such invalidation constitutes a failure of the condition. Upon finding such failure of condition, the determination that the body is authoritative shall be deemed to be revoked. Chemicals which the lead agency has determined have been formally identified by the body as causing cancer or reproductive toxicity pursuant to the controls set forth in this section and which have been placed upon the list of chemicals known to the state to cause cancer or reproductive toxicity prior to such revocation shall remain on the list.

(*l*) The following have been identified as authoritative bodies for purposes of this section for the identification of chemicals as causing reproductive toxicity:

(1) International Agency for Research on Cancer solely as to transplacental carcinogenicity

(2) National Institute for Occupational Safety and Health

(3) National Toxicology Program solely as to final reports of the National Toxicology Program's Center for Evaluation of Risks to Human Reproduction

(4) U. S. Environmental Protection Agency

(5) U. S. Food and Drug Administration

(m) The following have been identified as authoritative bodies for the identification of chemicals as causing cancer:

(1) International Agency for Research on Cancer

(2) National Institute for Occupational Safety and Health

(3) National Toxicology Program

(4) U. S. Environmental Protection Agency

(5) U. S. Food and Drug Administration

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.8 and 25249.12, Health and Safety Code.

HISTORY

1. New section filed 10–30–89 as an emergency; operative 10–30–89 (Register 89, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–27–90.
2. Change without regulatory effect filed 10–31–89 pursuant to section 100, Title 1, California Code of Regulations (Register 89, No. 44).
3. Certificate of Compliance as to 10–30–89 order including amendment of subsections (c) – (l) transmitted to OAL 2–27–90 and filed 3–29–90 (Register 90, No. 16).
4. Amendment of subsection (l) submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 90, No. 28).
5. Editorial correction of printing error relettering subsection (d) (Register 90, No. 45).
6. Certificate of Compliance as to 10–24–94 order including amendment of section transmitted to OAL 2–22–95 and filed 4–5–95 (Register 95, No. 14).
7. Amendment of subsections (*l*)–(*l*)(1), repealer of subsection (*l*)(3), subsection renumbering, and new subsections (m)–(m)(5) filed 4–9–99; adopted and effective 7–27–98; changes not considered to be a regulation for the purposes of the Administrative Procedure Act pursuant to Health and Safety Code section 25249.8(e); printed pursuant to Government Code section 11343.8 (Register 99, No. 15).
8. Amendment of subsections (a), (b), (i) and (k) filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
9. Change without regulatory effect adopting new subsection (*l*)(3) and renumbering subsections filed 2–19–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 8).
10. Change without regulatory effect renumbering title 22, section 12306 to title 27, section 25306 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

Article 4. Discharge

§ 25401. Discharge of Water Containing a Listed Chemical at Time of Receipt.

(a) Whenever a person otherwise responsible for the discharge or release receives water containing a listed chemical from:

(1) a public water system, as defined in Section 116275 of the Health and Safety Code (1997);

(2) a commercial supplier of drinking water; or

(3) a source of drinking water in compliance with all primary drinking water standards and the chemical is the result of treatment of the water in order to achieve such compliance; the person does not "discharge" or "release" within the meaning of the Act to the extent that the person can show that the listed chemical was contained in the water received. "Discharge or release" shall apply only to that amount of the listed chemical derived from sources other than the drinking water.

(b) Whenever a person otherwise responsible for the discharge or release receives water containing a listed chemical from a source other than a source specified in subsection (a) the person does not "discharge" or "release" within the meaning of the Act to the extent that the person can show that the listed chemical was contained in the water received, and "discharge or release" shall apply only to that amount of the listed chemical derived from sources other than the water, provided that:

(1) The water is returned to the same source of water supply, or

(2) The water meets all primary drinking water standards for the listed chemical or, where there is no primary drinking water standard established for the listed chemical, the water shall not contain a significant amount of the chemical.

(c) Stormwater runoff from a place of doing business containing a listed chemical, the presence of which is not the direct and immediate result of the business activities conducted at the place from which the runoff flows, is not a "discharge" or "release" within the meaning of the Act. For purposes of this subsection, "business activities" does not include parking lots.

(d) The movement of naturally occurring chemicals as the result of the application, unavoidable runoff, or percolation of agricultural irrigation water is not a "discharge" or "release" within the meaning of Section 25249.5 of the Act. For purposes of this subsection, "naturally occurring chemicals" means chemicals present in the soil solely as a result of natural geologic processes.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5 and 25249.11, Health and Safety Code.

HISTORY

1. New section filed 10–17–88 as an emergency; operative 10–17–88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–14–89.
2. Certificate of Compliance filed 11–15–88 (Register 89, No. 30).
3. Amendment of filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
4. Change without regulatory effect renumbering title 22, division 2, subdivision 1, chapter 3, article 4 (sections 12401–12405) to title 27, division 4, chapter 1, article 4 (sections 25401–25405) and renumbering title 22, section 12401 to title 27, section 25401 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25403. Discharges from Hazardous Waste Facilities.

(a) For a discharge or release of a listed chemical from a low-level radioactive waste disposal facility licensed pursuant to Chapter 7.6 of Division 20 (commencing with Section 25800) of the Health and Safety Code, a solid waste "disposal facility" as defined in Public Resources Code Section 40121 (1990) or a hazardous waste "disposal site" as defined in Health and Safety Code section 25114, it shall be presumed that the chemical probably will not pass into any source of drinking water for purposes of Section 25249.5 of the Act, provided that the operator of the facility or site can show that the facility or site is subject to and in compliance with requirements of state or federal statutes, regulations, permits and orders adopted to avoid contamination of surface or groundwater.

(b) The presumption in subsection (a) may be rebutted by any admissible evidence, including, but not limited to, that compliance with the same or substantially the same requirements of state or federal statutes, regulations, permits and orders adopted to avoid contamination of surface or groundwater has failed to prevent surface or groundwater contamination at similar facilities or sites under similar circumstances.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Section 25249.5, Health and Safety Code.

HISTORY

1. New section filed 10–21–88 as an emergency; operative 10–27–88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–24–89.
2. New section refiled 2–21–89 as an emergency; operative 2–24–89 (Register 89, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–26–89.
3. New section, with amendment of subsection (a) adding certain low-level radioactive waste disposal facilities, refiled 6–5–89 as an emergency; operative 6–26–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–24–89.
4. Certificate of Compliance as to 6–5–89 order transmitted to OAL 10–23–89 and filed 11–22–89 (Register 89, No. 48).
5. Amendment of subsection (a) filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
6. Change without regulatory effect renumbering title 22, section 12403 to title 27, section 25403 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25405. Discharge of a Pesticide.

For a discharge or release of a listed chemical which is an active ingredient, other specified ingredient, or degradation product of a pesticide as defined in Section 12753 of the Food and Agricultural Code (1996), if the person responsible for the application can show that the registrant of the pesticide has completely and adequately satisfied all of the data submission requirements of section 13143(a) of the Food and Agricultural Code (1996) and that the pesticide has not been placed on the Groundwater Protection List described in section 13145 of the Food and Agricultural Code (1996) and that the application is otherwise in compliance with the Pesticide Contamination Prevention Act of 1985 (1996) and all regulations promulgated thereunder, then it shall be presumed that the chemical probably will not pass into any source of drinking water for purposes of Section 25249.5 of the Act. For purposes of this section only, the person responsible for the application may rely upon information regarding a registrant's compliance with Section 13143(a), Food and Agricultural Code (1996), which is obtained from the Department of Pesticide Regulation through the office of a county agriculture commissioner.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Section 25249.5, Health and Safety Code.

HISTORY

1. New section refiled 6–5–89 as an emergency; operative 6–26–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–24–89. For prior history, see Register 89, No. 10.
2. New section refiled 10–19–89 as an emergency; operative 10–24–89 (Register 89, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–21–90.
3. Certificate of Compliance as to 10–19–89 order including amendment transmitted to OAL 1–5–90 and filed 1–23–90 (Register 90, No. 5).
4. Amendment of section heading and section filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
5. Change without regulatory effect renumbering title 22, section 12405 to title 27, section 25405 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

Article 5. Extent of Exposure

§ 25501. Exposure to a Naturally Occurring Chemical in a Food.

(a) Human consumption of a food shall not constitute an "exposure" for purposes of Section 25249.6 of the Act to a listed chemical in the food to the extent that the person responsible for the exposure can show that the chemical is naturally occurring in the food.

(1) For the purposes of this section, a chemical is "naturally occurring" if it is a natural constituent of a food, or if it is present in a food solely as a result of absorption or accumulation of the chemical which is naturally present in the environment in which the food is raised, or grown, or obtained; for example, minerals present in the soil solely as a result of natural geologic processes, or toxins produced by the natural growth of fungi.

(2) The "naturally occurring" level of a chemical in a food may be established by determining the natural background level of the chemical in the area in which the food is raised, or grown, or obtained, based on reliable local or regional data.

(3) A chemical is naturally occurring only to the extent that the chemical did not result from any known human activity. Where a food contains a chemical, in part naturally occurring and in part added as a result of known human activity, "exposure" can only occur as to that portion of

the chemical which resulted from such human activity. For purposes of this section, "human activity" does not include sowing, planting, irrigation, or plowing or other mechanical preparation of soil for agricultural purposes; but does include the addition of chemicals to irrigation water applied to soil or crops.

(4) Where a chemical contaminant can occur naturally in a food, the chemical is naturally occurring only to the extent that it was not avoidable by good agricultural or good manufacturing practices. The producer, manufacturer, distributor, or holder of the food shall at all times utilize quality control measures that reduce natural chemical contaminants to the "lowest level currently feasible," as this term is used in Title 21, Code of Federal Regulations, Section 110.110, subdivision (c) (2001).

(b) A person otherwise responsible for an exposure to a listed chemical in a consumer product, other than food, does not "expose" an individual within the meaning of Section 25249.6 of the Act to the extent that the person can show that the chemical was a naturally occurring chemical in food, and the food was used in the manufacture, production, or processing of the consumer product. Where a consumer product contains a listed chemical, and the source of the chemical is in part from a naturally occurring chemical in food and in part from other sources, "exposure" can only occur as to that portion of the chemical from other sources.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Section 25249.6, Health and Safety Code.

HISTORY

1. New section refiled 6–19–89 as an emergency; operative 6–22–89 (Register 89, No. 30). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–20–89. For prior history, see Register 89, No. 10.
2. Emergency Section 12501 repealed 7–10–89; repealer operative 8–9–89. New Section 12501 filed 7–10–89; operative 8–9–89 (Register 89, No. 30).
3. Amendment filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
4. Change without regulatory effect renumbering title 22, division 2, subdivision 1, chapter 3, article 5 (sections 12501–12505) to title 27, division 4, chapter 1, article 5 (sections 25501–25505) and renumbering title 22, section 12501 to title 27, section 25501 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25502. Exposure to a Listed Chemical in Drinking Water.

(a) A person otherwise responsible for an exposure to a listed chemical which involves the use of drinking water, including the use of drinking water in food or any other consumer product, does not "expose" an individual within the meaning of Section 25249.6 of the Act to the extent that the person can show that the listed chemical was contained in drinking water which was received from:

(1) a public water system, as defined in Section 116275 of the Health and Safety Code (1997);

(2) a commercial supplier of drinking water; or

(3) a source of drinking water in compliance with all applicable primary drinking water standards for all listed chemicals and the chemical in question is the result of treatment of the water in order to achieve compliance with primary drinking water standards.

Where the source of the listed chemical is in part from such drinking water and in part from other sources, "exposure" can occur only as to that portion of the listed chemical from sources other than such drinking water.

(b) For purposes of subsection (a), the amount of a listed chemical contained in drinking water shall be determined by sampling of the drinking water at the point of delivery and by testing pursuant to Section 25901. If sampling and testing is impractical, the amount of a listed chemical shall be based on test results of the most recent sample of the drinking water taken by the public water system or the commercial drinking water supplier, provided that all sampling and testing has been conducted at the frequency and in the manner required by law, or alternatively, such amount shall be calculated at five percent of the maximum contaminant level set forth in the primary drinking water standard for the listed chemical.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.6 and 25249.11, Health and Safety Code.

HISTORY

1. New section filed 7–10–89; operative 8–9–89 (Register 89, No. 30).
2. Amendment filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
3. Change without regulatory effect renumbering title 22, section 12502 to title 27, section 25502, including amendment of subsection (b), filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25503. Exposure to Water.

A person otherwise responsible for an exposure to a listed chemical does not "expose" an individual within the meaning of Section 25249.6 of the Act to the extent that the person can show that the listed chemical was contained in water which the person moved or which was handled in the manner described in Section 25401. Nothing in this section shall be interpreted to affect the responsibility for an exposure which arises from any activity other than that described in Section 25401.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.6 and 25249.11, Health and Safety Code.

HISTORY

1. New section refiled 6–19–89 as an emergency; operative 6–22–89 (Register 89, No. 30). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–20–89. For prior history, see Register 89, No. 10.
2. Emergency Section 12503 repealed 7–10–89; repealer operative 8–9–89. New Section 12503 filed 7–10–89; operative 8–9–89 (Register 89, No. 30).
3. Amendment filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
4. Change without regulatory effect renumbering title 22, section 12503 to title 27, section 25503, including amendment of section, filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25504. Exposure to Air.

A person otherwise responsible for an exposure to a listed chemical in air does not "expose" an individual within the meaning of Section 25249.6 of the Act to the extent that the person can show that the listed chemical was contained in air that the person received from the ambient air. Where the source of the listed chemical is in part from the ambient air and in part from other sources, "exposure" does not occur as to that portion of the listed chemical from the ambient air to the extent that the person did not put the listed chemical into the ambient air.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Section 25249.6, Health and Safety Code.

HISTORY

1. New section filed 7–10–89; operative 8–9–89 (Register 89, No. 30).
2. Amendment filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
3. Change without regulatory effect renumbering title 22, section 12504 to title 27, section 25504 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25505. Miscellaneous. [Repealed]

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.6 and 25249.11, Health and Safety Code.

HISTORY

1. New section refiled 6–19–89 as an emergency; operative 6–22–89 (Register 89, No. 30). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–20–89. For prior history, see Register 89, No. 10.
2. Emergency Section 12505 repealed 7–10–89; repealer operative 8–9–89 (Register 89, No. 30).
3. Change without regulatory effect renumbering title 22, section 12505 to title 27, section 25505 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

Article 6. Clear and Reasonable Warnings

§ 25601. Clear and Reasonable Warnings.

(a) Whenever a clear and reasonable warning is required under Section 25249.6 of the Act, the method employed to transmit the warning must be reasonably calculated, considering the alternative methods available under the circumstances, to make the warning message available to the individual prior to exposure. The message must clearly communicate that the chemical in question is known to the state to cause cancer, or birth defects or other reproductive harm. Nothing in this section shall be construed to preclude a person from providing warnings other than those specified in subsections (b), (c), and (d) which satisfy the requirements of this subsection, or to require that warnings be provided separately to each exposed individual.

(b) Warnings for consumer products exposures which include the methods of transmission and the warning messages as specified by this subsection shall be deemed to be clear and reasonable. A "consumer products exposure" is an exposure which results from a person's acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer good, or any exposure that results from receiving a consumer service.

(1) The warning may be provided by using one or more of the following methods singly or in combination:

(A) A warning that appears on a product's label or other labeling. The term "label" means a display of written, printed or graphic matter upon a product or its immediate container. The term "labeling" means any label or other written, printed or graphic matter affixed to or accompanying a product or its container or wrapper.

(B) Identification of the product at the retail outlet in a manner which provides a warning. Identification may be through shelf labeling, signs, menus, or a combination thereof.

(C) A system of signs, public advertising identifying the system and toll-free information services, or any other system, that provides clear and reasonable warnings.

(D) For alcoholic beverages, including, without limitation, beer, malt beverages, wine and distilled spirits:

1. Primarily intended for consumption off the premises where sold or distributed:

(i) at least one notice or sign, no smaller than 10 inches wide by 10 inches high, and bearing the warning message set forth in subparagraph (4)(E) of this subsection; or

(ii) at least one horizontal strip marker no smaller than 10 1/2 inches wide by 1 1/4 inches high, and bearing the warning message set forth in subparagraph (4)(E) of this subsection; or

(iii) a notice no smaller than 5 inches by 5 inches, and bearing the warning message set forth in subparagraph (4)(E) of this subsection.

(iv) If signs 10 inches high by 10 inches wide are used, the word "warning" shall be centered three-quarters of an inch from the top of the sign in ITC Garamond bold condensed type face all in one-inch capital letters. Three-sixteenths of an inch from the base of the word "warning" shall be a line extending from left to right across the width of the sign one-sixteenth of an inch in thickness. Centered one-half inch below the line shall be the body of the warning message in 36/50 ITC Garamond bold condensed type face with the initial letter of each word, other than the conjunctive "and," capitalized. For the body of the warning message, left and right margins of at least one-half of an inch, and a bottom margin of at least one-half inch shall be observed. Larger signs shall bear substantially the same proportions of type size and spacing to sign dimension as the sign 10 inches high by 10 inches wide.

(v) If the 10 1/2 inch by 1 1/4 inch horizontal strip markers are used,the word "WARNING," punctuated by a colon, shall be justified left and located three-sixteenths of an inch from the top of the strip notice in ITC Garamond bold condensed type face all in capital letters measuring eleven sixteenths of an inch in height. Three thirty-seconds of an inch from the base of the word "WARNING" shall be a line extending from left to right across the width of the word "WARNING" and the punctuating colon one thirty-second of an inch in thickness. Located one-fourth of an inch from the top and one-fourth of an inch from the bottom of the strip notice, and to the immediate right of the word "WARNING," shall be the body of the warning message in 12/16 point ITC Garamond bold condensed type face with the initial letter of each word, other than the conjunctive "and," capitalized. The word "WARNING" shall be one-half inch from the left edge of the strip notice and the requisite warning message shall extend to within one-half inch from the right edge.

(vi) If the 5 inch by 5 inch signs are used, they shall bear substantially the same proportions of type size and spacing to sign dimension as the sign 10 inches high by 10 inches wide, with both the word "WARNING" and the warning text set in white on a contrasting red background.

(vii) Such sign or notice shall be placed in the retail establishment so as to assure that it is readable and likely to be read either at each retail point of sale or each point of display. Such sign or notice shall be placed either at all retail points of sale or all points of display, but need not be placed at both. If 10 inch by 10 inch signs or notices are placed at the point of display, each shall be placed no more than ten feet from any alcoholic beverage container and in a manner associating the sign or notice with the display. If horizontal strip notices are used, they shall be placed at ten-foot intervals horizontally along the display. If a 5 inch by 5 inch sign is used, it shall be conspicuously placed at each retail point of sale (e.g., check-out counter, cash register, cash box) so that it is likely to be read and understood during the sales transaction.

(viii) All measurements specified or referred to in paragraphs (iv), (v) and (vi), above, are not required to be precisely accurate.

2. Provided for consumption on the premises at tables served by food or beverage persons, or sold or distributed through over the counter service;

(i) a notice or sign displayed at each of the tables where alcoholic beverages are served or may be consumed at least 5 inches high by 5 inches wide bearing substantially the same type face and substantially the same proportion of type size and spacing to sign dimension as described in paragraph (D)1. (vi); or

(ii) the warning message set forth in subparagraph (4)(E) of this subsection, placed upon a menu or list in association with the alcoholic beverages listed thereon and served at such premises, or if alcoholic beverages are not listed thereon, on any menu or list provided to patrons in association with the listing of food or beverage offerings, in type size and design, such that the text is conspicuous and likely to be read prior to consumption of alcoholic beverages or,

(iii) at least one 10 inch by 10 inch sign, meeting the specifications set forth in paragraph (D)1. (iv) of this subsection, placed so that it is readable and likely to be read by patrons as they enter each public entrance to the establishment. If the establishment does not have clearly defined physical boundaries delineating those areas where, by permit or license, alcoholic beverages are served, the 10 inch by 10 inch sign shall be posted so that it is readable and likely to be read by patrons as they enter the area or areas where, by permit or license, alcoholic beverages are served; and

(iv) If sold or distributed through over-the-counter service, at least one sign, meeting the specifications set forth in paragraph (D)1. (iv) of this subsection, placed in the retail establishment so that the warning message is, prior to the consumption of alcoholic beverages, readable and likely to be read from all counter locations available to the public. Therefore, a retail establishment providing a warning pursuant to the preceding sentence, also would be required to provide a warning in accordance with either paragraph 2.(i), 2.(ii) or 2.(iii) of this subsection.

3. For premises which are specially licensed to sell and serve alcoholic beverages both on and off the licensed premises (e.g., in facilities that offer both "tasting" and retail sales), the off-sale portion of the premises shall comply with the provisions of subparagraph (D)1, above, and the portion of the premises where alcoholic beverages are served shall comply with the provisions of subparagraph (D)2, above.

4. For alcoholic beverages sold or distributed to consumers through the mail or package delivery services, warnings may be provided by incorporating or placing the warning message set forth in subparagraph (4)(E) on or in the shipping container or delivery package in such a manner so that the warning message is likely to be read by the recipient prior to consumption of the alcoholic beverage(s).

5. All signs or notices referred to in subparagraphs (D)1., (D)2. and (D)3., above, shall be displayed so that they are clearly visible under all lighting conditions normally encountered during business hours.

(2) To the extent practicable, warning materials such as signs, notices, menu stickers, or labels shall be provided by the manufacturer, producer, or packager of the consumer product, rather than by the retail seller. For alcoholic beverages, the placement and maintenance of the warning shall be the responsibility of the manufacturer or its distributor at no cost to the retailer, and any consequences for failure to do the same shall rest solely with the manufacturer or its distributor, provided that the retailer does not remove, deface, or obscure the requisite signs or notices, or obstruct, in-

terfere with, or otherwise frustrate the manufacturer's reasonable efforts to post, maintain, or periodically replace said materials.

(A) For prescription drugs, the labeling approved or otherwise provided under federal law and the prescriber's accepted practice of obtaining a patient's informed consent shall be deemed to be a clear and reasonable warning.

(B) For exposures resulting from emergency or urgent medical or dental care as defined in Section 25102(g), the accepted practice of obtaining the patient's informed consent shall be deemed to be a clear and reasonable warning when any of the following circumstances exists:

1. the patient is unconscious; or

2. the procedure must be undertaken because the licensed medical personnel, licensed dental personnel, or certified emergency medical personnel responsible for administering the care, as these terms are defined in Sections 25102(q), 25102(d), and 25102(b), respectively, reasonably believes that the procedure should be undertaken immediately; and therefore, there is insufficient time to fully inform the patient; or

3. the procedure must be performed on a person legally incapable of giving consent, and the licensed medical personnel, licensed dental personnel, or certified emergency medical personnel responsible for administering the care reasonably believes the procedure should be undertaken immediately; and therefore, there is insufficient time to obtain the informed consent of a person authorized to give such consent for the patient.

(3) The warnings provided pursuant to subparagraphs (1)(A) and (1)(B) shall be prominently placed upon a product's label or other labeling or displayed at the retail outlet with such conspicuousness, as compared with other words, statements, designs, or devices in the label, labeling or display as to render it likely to be read and understood by an ordinary individual under customary conditions of purchase or use.

(4) The warning message must include the following language:

(A) For consumer products that contain a chemical known to the state to cause cancer:

"WARNING: This product contains a chemical known to the State of California to cause cancer."

(B) For consumer products that contain a chemical known to the state to cause reproductive toxicity:

"WARNING: This product contains a chemical known to the State of California to cause birth defects or other reproductive harm."

(C) For food, other than alcoholic beverages, sold, served, or otherwise provided in food facilities, as defined in Health and Safety Code Section 27521(a), which is intended for immediate consumption:

"WARNING: Chemicals known to the State of California to cause cancer, or birth defects or other reproductive harm may be present in foods or beverages sold or served here."

(D) For fresh fruits, nuts and vegetables:

"WARNING: This product may contain a chemical known to the State of California to cause cancer, or birth defects or other reproductive harm."

(E) For alcoholic beverages, including, without limitation, beer, malt beverages, wine and distilled spirits:

"WARNING: Drinking Distilled Spirits, Beer, Coolers, Wine and Other Alcoholic Beverages May Increase Cancer Risk, and, During Pregnancy, Can Cause Birth Defects."

(5) A person in the course of doing business, who manufactures, produces, assembles, processes, handles, distributes, stores, sells or otherwise transfers a consumer product which he or she knows to contain a chemical known to the state to cause cancer or reproductive toxicity in an amount which requires a warning shall provide a warning to any person to whom the product is sold or transferred unless the product is packaged or labeled with a clear and reasonable warning.

(c) Warnings for occupational exposures which include the methods of transmission and the warning messages as specified by this subdivision shall be deemed clear and reasonable. An "occupational exposure" is an exposure, in the workplace of the employer causing the exposure, to any employee.

(1) The method employed to transmit the warning must include one of the following alternative methods:

(A) A warning that appears on the label or labeling of a product or substance present or used in the workplace. The label or labeling shall be prominently displayed on the product or substance and the product or substance shall be used under circumstances which make it likely that the warnings will be read and understood by employees or other individuals prior to the exposure for which the warning is given.

(B) A warning that appears on a sign in the workplace posted in a conspicuous place and under conditions that make it likely to be read and understood by employees and other individuals prior to the exposure for which the warning is given.

(C) A warning to the exposed employee about the chemical in question which fully complies with all information, training and labeling requirements of the federal Hazard Communication Standard (29 CFR section 1910.1200, as amended on March 7, 1996), the California Hazard Communication Standard (Cal. Code Regs., title 8, section 5194, as amended on March 15, 1999), or, for pesticides, the Pesticides and Worker Safety requirements (Cal. Code Regs., title 3, section 6700 et seq., as amended on June 20, 2001) authorized in Food and Agricultural Code section 12981 as amended by Governor's Reorganization Plan No. 1 of 1991.

(2) For purposes of subparagraph (1)(A) of this subsection, the warning shall be provided in terms which would provide a clear warning for a consumer product as specified above.

(3) For purposes of subparagraph (1)(B) of this subsection, the following specific warning messages shall be deemed to clearly communicate that an individual is being exposed to a chemical known to the state to cause cancer, or birth defects or other reproductive harm.

(A) For exposure to a chemical known to the state to cause cancer:

"WARNING: This area contains a chemical known to the State of California to cause cancer."

(B) For exposure to a chemical known to the state to cause reproductive toxicity:

"WARNING: This area contains a chemical known to the State of California to cause birth defects or other reproductive harm."

(d) Warnings for environmental exposures which include the methods of transmission and the warning messages as specified by this subsection shall be deemed clear and reasonable. An "environmental exposure" is an exposure which may foreseeably occur as the result of contact with an environmental medium, including, but not limited to, ambient air, indoor air, drinking water, standing water, running water, soil, vegetation, or manmade or natural substances, either through inhalation, ingestion, skin contact or otherwise. Environmental exposures include all exposures which are not consumer products exposures, or occupational exposures.

(1) The method employed to transmit the warning must include the most appropriate of the following alternative methods under the circumstances:

(A) A warning that appears on a sign in the affected area. The term "sign" means a presentation of written, printed or graphic matter. The term "affected area" means the area in which an exposure to a chemical known to the state to cause cancer or reproductive toxicity is at a level that requires a warning.

(B) A posting of signs in the manner described in Section 6776(d) of Title 3 of the California Code of Regulations as amended on May 10, 1999 shall be sufficient for purposes of this paragraph.

(C) A warning which is in a notice mailed or otherwise delivered to each occupant in the affected area. Such notice shall be provided at least once in any three–month period.

(D) A warning provided by public media announcements which target the affected area. Such announcements shall be made at least once in any three–month period.

(2) Environmental exposure warnings shall be provided in a conspicuous manner and under such conditions as to make it likely to be read, seen or heard and understood by an ordinary individual in the course of normal

daily activity, and reasonably associated with the location and source of the exposure.

(3) For purposes of subparagraph (1)(A) of this subsection, the following specific warning messages shall be deemed to clearly communicate that an individual is being exposed to a chemical known to the state to cause cancer, or birth defects or other reproductive harm.

(A) For exposure to a chemical known to the state to cause cancer:

"WARNING: This area contains a chemical known to the State of California to cause cancer."

(B) For exposure to a chemical known to the state to cause reproductive toxicity:

"WARNING: This area contains a chemical known to the State of California to cause birth defects or other reproductive harm."

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.6 and 25249.11, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) filed 6–7–89 as an emergency; operative 7–1–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–30–89. For prior history, see Register 88, No. 53.
2. Certificate of Compliance as to 6–7–89 order transmitted to OAL 10–23–89 and filed 11–22–89 (Register 89, No. 48).
3. Editorial correction of printing error in subsection (c)(1)(C) (Register 91, No. 31).
4. New subsections (b)(2)(A)–(b)(2)(B)3. filed 8–27–2002; operative 9–26–2002 (Register 2002, No. 35).
5. Amendment filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
6. Change without regulatory effect renumbering title 22, division 2, subdivision 1, chapter 3, article 6 (section 12601) to title 27, division 4, chapter 1, article 6 (section 25601) and renumbering title 22, section 12601 to title 27, section 25601, including amendment of subsections (b)(2)(B) and (b)(2)(B)2., filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

Article 7. No Significant Risk Levels

§ 25701. General.

(a) The determination of whether a level of exposure to a chemical known to the state to cause cancer poses no significant risk for purposes of Section 25249.10(c) of the Act shall be based on evidence and standards of comparable scientific validity to the evidence and standards which form the scientific basis for the listing of the chemical as known to the state to cause cancer. Nothing in this article shall preclude a person from using evidence, standards, risk assessment methodologies, principles, assumptions or levels not described in this article to establish that a level of exposure to a listed chemical poses no significant risk.

(b) A level of exposure to a listed chemical, assuming daily exposure at that level, shall be deemed to pose no significant risk provided that the level is determined:

(1) By means of a quantitative risk assessment that meets the standards described in Section 25703;

(2) By application of Section 25707 (Routes of Exposure); or

(3) By one of the following, as applicable:

(A) If a specific regulatory level has been established for the chemical in question in Section 25705, by application of that level.

(B) If no specific level is established for the chemical in question in Section 25705, by application of Section 25709 (Exposure to Trace Elements) or 25711 (Levels Based on State or Federal Standards) unless otherwise provided.

(c) The chemicals, routes of exposure and conditions of use specifically listed in this article do not include all chemicals, routes of exposure and conditions of use that pose no significant risk. The fact that a chemical, route of exposure or condition of use does not appear in this article does not mean that it poses a significant risk.

(d) This article establishes exposure levels posing no significant risk solely for purposes of Section 25249.10(c) of the Act. Nothing in this article shall be construed to establish exposure or risk levels for other regulatory purposes.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

HISTORY

1. New section filed 2–24–88 as an emergency; operative 2–27–88 (Register 88, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–27–88.
2. New section refiled 6–27–88 as an emergency; operative 6–27–88 (Register 88, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–25–88.
3. New section refiled 10–17–88 as an emergency; operative 10–25–88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–22–89.
4. New section refiled 2–21–89 as an emergency; operative 2–22–89 (Register 89, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–22–89.
5. Certificate of Compliance including amendment transmitted to OAL 6–9–89 and filed 7–10–89 (Register 89, No. 30).
6. Amendment of subsection (b)(3)(B) filed 11–16–93; operative 12–16–93 (Register 93, No. 47).
7. Amendment of subsections (a) and (d) filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
8. Change without regulatory effect renumbering title 22, division 2, subdivision 1, chapter 3, article 7 (sections 12701–12721) to title 27, division 4, chapter 1, article 7 (sections 25701–25721) and renumbering title 22, section 12701 to title 27, section 25701, including amendment of subsections (b)(1)–(b)(2)(B), filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25703. Quantitative Risk Assessment.

(a) A quantitative risk assessment which conforms to this section shall be deemed to determine the level of exposure to a listed chemical which, assuming daily exposure at that level, poses no significant risk. The assessment shall be based on evidence and standards of comparable scientific validity to the evidence and standards which form the scientific basis for listing the chemical as known to the state to cause cancer. In the absence of principles or assumptions scientifically more appropriate, based upon the available data, the following default principles and assumptions shall apply in any such assessment:

(1) Animal bioassay studies for quantitative risk assessment shall meet generally accepted scientific principles, including the thoroughness of experimental protocol, the degree to which dosing resembles the expected manner of human exposure, the temporal exposure pattern, the duration of study, the purity of test material, the number and size of exposed groups, the route of exposure, and the extent of tumor occurrence.

(2) The quality and suitability of available epidemiologic data shall be appraised to determine whether the study is appropriate as the basis of a quantitative risk assessment, considering such factors as the selection of the exposed and reference groups, reliable ascertainment of exposure, and completeness of follow–up. Biases and confounding factors shall be identified and quantified.

(3) Risk analysis shall be based on the most sensitive study deemed to be of sufficient quality.

(4) The results obtained for the most sensitive study deemed to be of sufficient quality shall be applicable to all routes of exposure for which the results are relevant.

(5) The absence of a carcinogenic threshold dose shall be assumed and no–threshold models shall be utilized. A linearized multistage model for extrapolation from high to low doses, with the upper 95 percent confidence limit of the linear term expressing the upper bound of potency shall be utilized. Time–to–tumor models may be appropriate where data are available on the time of appearance of individual tumors, and particularly when survival is poor due to competing toxicity.

(6) Human cancer potency shall be derived from data on human or animal cancer potency. Potency shall be expressed in reciprocal milligrams of chemical per kilogram of bodyweight per day. Interspecies conversion of animal cancer potency to human cancer potency shall be determined by multiplying by a surface area scaling factor equivalent to the ratio of human to animal bodyweight, taken to the one–third power. This is equivalent to a scaling factor of 14 when extrapolating from mouse data, and a scaling factor of 6.5 when extrapolating from rat data.

(7) When available data are of such quality that physiologic, pharmacokinetic and metabolic considerations can be taken into account with confidence, they may be used in the risk assessment for inter–species, inter–dose, and inter–route extrapolations.

(8) When the cancer risk applies to the general population, human body weight of 70 kilograms shall be assumed. When the cancer risk applies to a certain subpopulation, the following assumptions shall be made, as appropriate:

Subpopulation	*Kilograms of Body Weight*
Man (18+ years of age)	70
Woman (18+ years of age)	58
Woman with conceptus	58
Adolescent (11–18 years of age)	40
Child (2–10 years of age)	20
Infant (0–2 years of age)	10

(b) For chemicals assessed in accordance with this section, the risk level which represents no significant risk shall be one which is calculated to result in one excess case of cancer in an exposed population of 100,000, assuming lifetime exposure at the level in question, except where sound considerations of public health support an alternative level, as, for example:

(1) where chemicals in food are produced by cooking necessary to render the food palatable or to avoid microbiological contamination; or

(2) where chlorine disinfection in compliance with all applicable state and federal safety standards is necessary to comply with sanitation requirements; or

(3) where a clean–up and resulting discharge is ordered and supervised by an appropriate governmental agency or court of competent jurisdiction.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

HISTORY

1. New section filed 2–24–88 as an emergency; operative 2–27–88 (Register 88, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–27–88.
2. New section refiled 6–27–88 as an emergency; operative 6–27–88 (Register 88, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–25–88.
3. New section refiled 10–17–88 as an emergency; operative 10–25–88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–22–89.
4. Amendment of subsection (b) filed 10–17–88 as an emergency; operative 10–27–88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–24–89.
5. New section, as amended 10–27–88, refiled 2–21–89 as an emergency; operative 2–22–89 (Register 89, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–22–89.
6. Certificate of Compliance including amendment transmitted to OAL 6–9–89 and filed 7–10–89 (Register 89, No. 30).
7. Amendment of subdivision (b) filed 6–25–90; operative 7–25–90 (Register 90, No. 34).
8. Change without regulatory effect renumbering title 22, section 12703 to title 27, section 25703 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25705. Specific Regulatory Levels Posing No Significant Risk.

(a) Daily exposure to a chemical at a level which does not exceed the level set forth in subsections (b), (c) and (d) for such chemical shall be deemed to pose no significant risk within the meaning of Section 25249.10(c) of the Act.

(b) Levels of exposure deemed to pose no significant risk may be determined by the lead agency based on a risk assessment conducted by the lead agency pursuant to the guidelines set forth in Section 25703, or a risk assessment reviewed by the lead agency and determined to be consistent with the guidelines set forth in Section 25703.

(1) The following levels based on risk assessments conducted or reviewed by the lead agency shall be deemed to pose no significant risk:

Chemical Name	*Level (micrograms/day)*
Acrylonitrile	0.7
Aldrin	0.04
Arsenic	0.06 (inhalation)
Asbestos	100 fibers inhaled/day*
Benz[a]anthracene	0.033 (oral)
Benzene	6.4 (oral)
	13 (inhalation)
Benzidine	0.001
Benzo[b]fluoranthene	0.096 (oral)
Benzo[j]fluoranthene	0.11 (oral)
Benzofuran	1.1
Bis(2–chloroethyl)ether	0.3
Bis(chloromethyl)ether	0.02
Bromoform	64
Butylated hydroxyanisole	4000
Cadmium	0.05 (inhalation)
Carbon tetrachloride	5
N–Carboxymethyl–N–nitrosourea	0.70
Chloroethane	150
Chromium (hexavalent compounds)	0.001 (inhalation)
Chrysene	0.35 (oral)
C.I. Direct Blue 218	50
DDT, DDE and DDD (in combination)	2
7H–Dibenzo[c,g]carbazole	0.0030 (oral)
Dibenzo[a,h]pyrene	0.0054 (oral)
Dibenzo[a,i]pyrene	0.0050 (oral)
1,2–Dibromo–3–chloropropane (DBCP)	0.1
para–Dichlorobenzene	20
3,3′–Dichlorobenzidine	0.6
Dichloromethane (Methylene chloride)	200 (inhalation)
1,2–Dichloropropane	9.7
Dieldrin	0.04
Di(2–ethylhexyl)phthalate (DEHP)	310
3,3′–Dimethoxybenzidine	0.15
3,3′–Dimethoxybenzidine dihydrochloride	0.19
3,3′–Dimethylbenzidine	0.044
3,3′–Dimethylbenzidine dihydrochloride	0.059
1,4–Dioxane	30
Epichlorohydrin	9
Ethylene dibromide	0.2 (ingestion)
	3 (inhalation)
Ethylene dichloride	10
Ethylene oxide	2
Hexachlorobenzene	0.4
Hexachlorodibenzodioxin	0.0002
Hexachlorocyclohexane (technical grade)	0.2
Lead	15 (oral)
Lead acetate	23 (oral)
Lead phosphate	58 (oral)
Lead subacetate	41 (oral)
2–Methylaziridine (propyleneimine)	0.028
5–Methylchrysene	0.0084 (oral)
Methylhydrazine	0.058 (oral)
	0.090 (inhalation)
Methylhydrazine sulfate	0.18
5–Morpholinomethyl–3–[(5–nitrofurfurylidene)–amino]–2–oxazolidinone	0.18
MX (3–chloro–4–(dichloromethyl)–5–hydroxy–2(5*H*)–furanone)	0.11
Naphthalene	5.8
Nitromethane	39
N–Nitroso–n–dibutylamine	0.06
N–Nitrosodiethylamine	0.02
N–Nitrosodimethylamine	0.04
N–Nitrosodiphenylamine	80
N–Nitrosodi–n–propylamine	0.1
N–Nitroso–N–ethylurea	0.03
N–Nitroso–N–methylurea	0.006
Phenyl glycidyl ether	5.0
Phenylhydrazine	1.0
Phenylhydrazine hydrochloride	1.4
Polybrominated biphenyls	0.02
Polygeenan	1200
2,3,7,8–Tetrachlorodibenzo–p–dioxin	0.000005

Chemical Name	*Level (micrograms/day)*
Tetranitromethane	0.059
Toxaphene	0.6
Trichloroethylene	50 (ingestion) 80 (inhalation)
2,4,6–Trichlorophenol	10
Urethane	0.7
Vinyl chloride	3
2,6–Xylidine	110

*Fibers equal to or greater than 5 micrometers in length and 0.3 micrometers in width, with a length to width ratio of greater than or equal to 3:1 as measured by phase contrast microscopy.

(2) Whenever the lead agency proposes to formally adopt, pursuant to this subsection, a level which shall be deemed to pose no significant risk of cancer, assuming daily exposure at that level, the lead agency shall provide to each member of the Carcinogen Identification Committee notice of the proposed action, a copy of the proposed level, and a copy of the initial statement of reasons supporting the proposal. The close of the public comment period for any such proposal shall be scheduled by the lead agency so as to permit the Carcinogen Identification Committee the opportunity to review such proposal and provide comment to the lead agency. Any such comment by the Carcinogen Identification Committee shall become a part of the formal rulemaking file. Nothing in this subsection shall be construed to prevent members of the Carcinogen Identification Committee from providing comments individually on any such proposal, or to require the Carcinogen Identification Committee to submit any comment.

(c) Unless a specific regulatory level for a chemical known to the state to cause cancer has been established in subsection (b), levels of exposure deemed to pose no significant risk may be determined by the lead agency based on state or federal risk assessments.

(1) Any interested party may request the lead agency to reevaluate a level established in this subsection based on scientific considerations that indicate the need for the lead agency to develop its own risk assessment or to conduct a detailed review of the risk assessment used to derive the level in question. Such request shall be made in writing, and shall include a description of the scientific considerations that indicate the need for the lead agency to develop its own risk assessment or to conduct a detailed review of the risk assessment used to derive the level in question. The lead agency may establish a level for the chemical in question in subsection (b) as it deems necessary.

(2) The following levels based on state or federal risk assessments shall be deemed to pose no significant risk:

Chemical Name	*Level (micrograms/day)*
Acetaldehyde	90 (inhalation)
Acrylamide	0.2
Aniline	100
Azobenzene	6
Benzo[a]pyrene	0.06
Benzyl chloride	4
Beryllium oxide	0.1
Beryllium sulfate	0.0002
Bromodichloromethane	5
1,3–Butadiene	0.4
Chlordane	0.5
Chloroform	20 (ingestion) 40 (inhalation)
Coke oven emissions	0.3
DDVP (Dichlorvos)	2
Dichloromethane (Methylene chloride)	50
2,4–Dinitrotoluene	2
Folpet	200
Formaldehyde (gas)	40
Furmecyclox	20
Heptachlor	0.2
Heptachlor epoxide	0.08
Hexachlorocyclohexane	
alpha isomer	0.3
beta isomer	0.5
gamma isomer	0.6
Hydrazine	0.04
Hydrazine sulfate	0.2
4,4'–Methylene bis (N,N–dimethyl)benzeneamine	20
Nickel refinery dust	0.8
Nickel subsulfide	0.4
N–Nitrosodiethanolamine	0.3
N–Nitrosomethylethylamine	0.03
N–Nitrosopyrrolidine	0.3
Pentachlorophenol	40
Polychlorinated biphenyls (PCBs)	0.09
Tetrachloroethylene	14

(d) Unless a specific regulatory level has been established for a chemical known to the state to cause cancer in subsection (b) or (c), levels of exposure deemed to pose no significant risk may be determined by the lead agency using an expedited method consistent with the procedures specified in Section 25703.

(1) Any interested party may request the lead agency to reevaluate a level established in this subsection and to consider the adoption, in subsection (c), of a level based on a state or federal risk assessment. Such request shall be made in writing, and shall include a copy of the state or federal risk assessment which the interested party wishes the lead agency to consider as the basis for a level in subsection (c). The lead agency may establish a level in subsection (c) for the chemical in question based on a state or federal risk assessment as it deems necessary.

(2) Any interested party may request the lead agency to reevaluate a level established in this subsection based on scientific considerations that indicate the need for a conventional risk assessment. Such request shall be made in writing, and shall include a description of the scientific considerations that indicate the need for a conventional risk assessment. The lead agency may conduct a conventional risk assessment for the chemical in question, and establish a level in subsection (b) as it deems necessary.

(3) The following levels of exposure based on risk assessments conducted by the lead agency using an expedited method consistent with the procedures specified in Section 25703 shall be deemed to pose no significant risk:

Chemical Name	*Level (micrograms/day)*
A–alpha–C (2–Amino–9H–pyridol[2,3–b]indole)	2
Acetamide	10
2–Acetylaminofluorene	0.2
Actinomycin D	0.00008
AF–2;[2–(2–furyl)–3(5–nitro–2–furyl) acrylamide]	3
2–Aminoanthraquinone	20
o–Aminoazotoluene	0.2
4–Aminobiphenyl (4–aminodiphenyl)	0.03
3–Amino–9–ethylcarbazole hydrochloride	9
1–Amino–2–methylanthraquinone	5
2–Amino–5–(5–nitro–2–furyl) –1,3,4–thiadiazole	0.04
Amitrole	0.7
o–Anisidine	5
o–Anisidine hydrochloride	7
Aramite	20
Auramine	0.8
Azaserine	0.06
Azathioprine	0.4
Benzyl violet 4B	30
beta–Butyrolactone	0.7
Carbazole	4.1
Captafol	5
Captan	300
Chlorambucil	0.002
Chlordecone (Kepone)	0.04

Chemical Name	*Level (micrograms/day)*
Chlorendic acid	8
Chlorinated paraffins (Average chain length, C12; approximately 60 percent chlorine by weight)	8
Chloromethyl methyl ether (technical grade)	0.3
3-Chloro-2-methylpropene	5
4-Chloro-ortho-phenylenediamine	40
Chlorothalonil	200
p-Chloro-*o*-toluidine	3
p-Chloro-*o*-toluidine hydrochloride	3.3
Chlorozotocin	0.003
C. I. Basic Red 9 monohydrochloride	3
Cinnamyl anthranilate	200
p-Cresidine	5
Cupferron	3
Cyclophosphamide (anhydrous)	1
Cyclophosphamide (hydrated)	1
D&C Red No. 9	100
Dacarbazine	0.01
Daminozide	40
Dantron (Chrysazin; 1,8-Dihydroxyanthraquinone)	9
2,4-Diaminoanisole	30
2,4-Diaminoanisole sulfate	50
4,4′-Diaminodiphenyl ether (4,4′-Oxydianiline)	5
2,4-Diaminotoluene	0.2
Dibenz[a,h]anthracene	0.2
1,1-Dichloroethane	100
Diethylstilbestrol	0.002
Digylcidyl resorcinol ether (DGRE)	0.4
Dihydrosafrole	20
4-Dimethylaminoazobenzene	0.2
trans-2[Dimethylamino)methylimino]-5-[2-(5-nitro-2-furyl)vinyl]-1,3,4-oxadiazole	2
7,12-Dimethylbenz(a)anthracene	0.003
Dimethylcarbamyl chloride	0.05
1,2-Dimethylhydrazine	0.001
Dimethylvinylchloride	20
Direct Black 38 (technical grade)	0.09
Direct Blue 6 (technical grade)	0.09
Direct Brown 95 (technical grade)	0.1
Disperse Blue 1	200
Estradiol 17B	0.02
Ethyl-4,4′-dichlorobenzilate (chlorobenzilate)	7
Ethylene thiourea	20
Ethyleneimine	0.01
2-(2-Formylhydrazino)-4-(5-nitro-2-furyl)thiazole	0.3
Glu-P-1 (2-Amino-6-methyldipyrido [1,2-a:3′,2′-d]imidazole)	0.1
Glu-P-2 (2-Aminodipyrido[1,2-a:3′, 2′-d]imidazole)	0.5
Gyromitrin (Acetaldehyde methylformylhydrazone)	0.07
HC Blue 1	10
Hexachloroethane	20
Hydrazobenzene (1,2-Diphenylhydrazine)	0.8
IQ (2-Amino-3-methylimidazo [4,5-f]quinoline)	0.5
Isobutyl nitrite	7.4
Lasiocarpine	0.09
Me-A-alpha-C (2-Amino-3-methyl-9H-pyrido[2,3-b]indole)	0.6
MeIQ (2-Amino-3,4-dimethylimidazo [4,5-*f*] quinoline)	0.46
MeIQx (2-Amino-3,8-dimethylimidazo [4,5-*f*] quinoxaline)	0.41
Melphalan	0.005
Methyl carbamate	160
3-Methylcholanthrene	0.03
4,4′-Methylene bis(2-chloroaniline)	0.5
4,4′-Methylene bis(2-methylaniline)	0.8
4,4′-Methylenedianiline	0.4
4,4′-Methylenedianiline dihydrochloride	0.6
Methyl methanesulfonate	7
2-Methyl-1-nitroanthraquinone (of uncertain purity)	0.2
N-Methyl-N′-nitro-N-nitrosoguanidine	0.08
Methylthiouracil	2
Michler's ketone	0.8
Mirex	0.04
Mitomycin C	0.00009
Monocrotaline	0.07
Nalidixic acid	28
2-Naphthylamine	0.4
Nitrilotriacetic acid	100
Nitrilotriacetic acid, trisodium salt monohydrate	70
5-Nitroacenaphthene	6
Nitrofen (technical grade)	9
Nitrofurazone	0.5
1-[(5-Nitrofurfurylidine)-amino]-2-imidazolidinone	0.4
N-[4-(5-Nitro-2-furyl)-2-thiazolyl] acetamide	0.5
p-Nitrosodiphenylamine	30
4-(N-Nitrosomethylamino)-1-(3-pyridyl)-1-butanone	0.014
N-Nitroso-N-methylurethane	0.006
N-Nitrosomorpholine	0.1
N-Nitrosonornicotine	0.5
N-Nitrosopiperidine	0.07
Phenacetin	300
Phenazopyridine	4
Phenazopyridine hydrochloride	5
Phenesterin	0.005
Phenobarbital	2
Phenoxybenzamine	0.2
Phenoxybenzamine hydrochloride	0.3
o-Phenylenediamine	26
o-Phenylenediamine dihydrochloride	44
o-Phenylphenate, sodium	200
Ponceau MX (D&C Red No. 5)	200
Ponceau 3R (FD&C Red No. 1)	40
Potassium bromate	1
Procarbazine	0.05
Procarbazine hydrochloride	0.06
1,3-Propane sultone	0.3
beta-Propiolactone	0.05
Propylthiouracil	0.7
Reserpine	0.06
Safrole	3
Sterigmatocystin	0.02
Streptozotocin	0.006
Styrene oxide	4
Sulfallate	4
1,1,2,2-Tetrachloroethane	3
Thioacetamide	0.1
4,4′-Thiodianiline	0.05
Thiourea	10
Toluene diisocyanate	20
o-Toluidine	4
o-Toluidine hydrochloride	5
Trimethyl phosphate	24
Tris(1-aziridinyl)phosphine sulfide (Thiotepa)	0.06
Tris(2,3-dibromopropyl)phosphate	0.3
Trp-P-1 (Tryptophan-P-1)	0.03
Trp-P-2 (Tryptophan-P-2)	0.2
Vinyl trichloride (1,1,2-Trichloroethane)	10

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

HISTORY

1. New section filed 2-24-88 as an emergency; operative 2-27-88 (Register 88, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-27-88.

2. New section refiled 6–27–88 as an emergency; operative 6–27–88 (Register 88, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–25–88.
3. New section refiled 10–17–88 as an emergency; operative 10–25–88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–22–89.
4. New section refiled 2–21–89 as an emergency; operative 2–22–89 (Register 89, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–22–89.
5. Certificate of Compliance including amendment transmitted to OAL 6–9–89 and filed 7–10–89 (Register 89, No. 30).
6. New subsection (b) filed 12–1–89; operative 12–31–89 (Register 89, No. 49).
7. Amendment of subsection (b) filed 5–16–90; operative 6–15–90 (Register 90, No. 25).
8. Amendment of subsection (b) filed 5–24–90; operative 6–23–90 (Register 90, No. 25).
9. Editorial correction of printing error in subsection (b) submitted to OAL for printing only 10–9–90 (Register 91, No. 3).
10. Amendment of subsection (b) adding Benzene filed 11–26–90; operative 12–26–90 (Register 91, No. 3).
11. Amendment of subsection (b) adding Arsenic, Butylated hydroxyanisole, Cadmium, and Chromium filed 9–16–92; operative 10–16–92 (Register 92, No. 38).
12. Amendment of subsection (b) adding Hexachlorodibenzodioxin and 2,3,7,8–Tetrachlorodibenzo–p–dioxin filed 9–16–92; operative 10–16–92 (Register 92, No. 38).
13. Amendment of subsection (b) adding dichloromethane, trichloroethylene and vinyl chloride filed 9–24–92; operative 10–26–92 (Register 92, No. 39).
14. Amendment of subsection (a), new subsections (b)–(b)(1), renumbering of subsection (c) to (b)(2) and amendment, new subsections (c)–(d)(3) filed 10–9–92; operative 11–9–92 (Register 92, No. 41).
15. Effective 10–29–99, allyl chloride and chlorodibromomethane were removed from the list of chemicals known to the State to cause cancer. The no significant risk levels of these chemicals were also removed, effective 10–29–99, from Title 22, CCR, sections 12705(c)(2) and 12705(d)(3) (Register 2001, No. 19).
16. Amendment of subsections (b), (c)(2) and (d)(3) filed 7–18–2002; operative 8–17–2002 (Register 2002, No. 29).
17. Amendment of subsections (a) and (b)(2) and deletion of extraneous subsection (b) designator filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
18. Amendment of subsections (b)(1) and (d)(3) filed 2–25–2003; operative 3–27–2003 (Register 2003, No. 9).
19. Amendment of subsection (b)(1) filed 4–12–2004; operative 5–12–2004 (Register 2004, No. 16).
20. Amendment of subsection (b)(1) filed 6–10–2004; operative 7–10–2004 (Register 2004, No. 24).
21. Amendment of subsection (b)(1) adding "1,2–Dichloropropane" filed 12–23–2004; operative 1–22–2005 (Register 2004, No. 52).
22. Amendment of subsections (b)(1) and (d)(3) filed 8–12–2005; operative 9–11–2005 (Register 2005, No. 32).
23. Change without regulatory effect amending subsection (d)(3) filed 1–30–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 5).
24. Effective December 8, 2006, 5 nitro–o–anisidine was removed from the list of chemicals known to cause cancer. This resulted in 5 nitro–o–anisidine and its no significant risk level contained in Section 12705(d)(3) no longer being applicable effective December 8, 2006. This change without regulatory effect removing 5 nitro–o–anisidine from Section 12705(d)(3) was filed 1–30–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 5).
25. Amendment of subsection (b)(1) adding "Nitromethane" filed 3–27–2008; operative 4–26–2008 (Register 2008, No. 13).
26. Change without regulatory effect renumbering title 22, section 12705 to title 27, section 25705, including amendment of subsections (b), (d) and (d)(3), filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).
27. Amendment of subsection (b)(1) filed 8–8–2008; operative 9–7–2008 (Register 2008, No. 32).

§ 25707. Routes of Exposure.

(a) Where scientifically valid absorption studies conducted according to generally accepted standards demonstrate that absorption of a chemical through a specific route of exposure can be reasonably anticipated to present no significant risk of cancer at levels of exposure not in excess of current regulatory levels, the lead agency may identify the chemical as presenting no significant risk by that route of exposure. Any exposure, discharge or release of a chemical so identified shall be deemed to present no significant risk to the extent that it results in exposure to humans by the identified route, and does not exceed the level established in any other applicable federal or state standard, regulation, guideline, action level, license, permit, condition, requirement or order.

(b) The following chemicals present no significant risk of cancer by the route of ingestion:

(1) Asbestos
(2) Beryllium and beryllium compounds
(3) Cadmium and cadmium compounds
(4) Chromium (hexavalent compounds)
(5) Nickel and nickel compounds

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

HISTORY

1. New section filed 2–24–88 as an emergency; operative 2–27–88 (Register 88, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–27–88.
2. New section refiled 6–27–88 as an emergency; operative 6–27–88 (Register 88, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–25–88.
3. New section refiled 10–17–88 as an emergency; operative 10–25–88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–22–89.
4. New subsection (b)(4) filed 10–17–88 as an emergency; operative 10–27–88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–24–89.
5. New section, as amended 10–27–88, refiled 2–21–89 as an emergency; operative 2–22–89 (Register 89, No. 9). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–22–89.
6. Certificate of Compliance including amendment transmitted to OAL 6–9–89 and filed 7–10–89 (Register 89, No. 30).
7. New subsection (b)(5) filed 8–30–90; operative 9–29–90 (Register 90, No. 42).
8. Change without regulatory effect renumbering title 22, section 12707 to title 27, section 25707 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25709. Exposure to Trace Elements.

(a) Except where a specific regulatory level is established in Section 25705, exposure to a trace element listed in subsection (b) shall be deemed to pose no significant cancer risk so long as the reasonably anticipated level of exposure to the chemical does not exceed the level set forth in subsection (b).

(b)

Element	*No Significant Risk Level in micrograms per day*
Arsenic (inorganic)	10 (except inhalation)
Beryllium	0.1

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

HISTORY

1. New section filed 2–24–88 as an emergency; operative 2–27–88 (Register 88, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–27–88.
2. New section refiled 6–27–88 as an emergency; operative 6–27–88 (Register 88, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–25–88.
3. New section refiled 10–17–88 as an emergency; operative 10–25–88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–22–89.
4. New section refiled 2–21–89 as an emergency; operative 2–22–89 (Register 89, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–22–89.
5. Certificate of Compliance including amendment transmitted to OAL 6–9–89 and filed 7–10–89 (Register 89, No. 30).
6. Amendment of Arsenic and repealer of Cadmium filed 9–16–92; operative 10–16–92 (Register 92, No. 38).
7. Amendment of subsection (a) filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
8. Change without regulatory effect renumbering title 22, section 12709 to title 27, section 25709, including amendment of subsection (a), filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25711. Levels Based on State or Federal Standards.

(a) Except as otherwise provided in section 25705, 25707, or 25709, levels of exposure deemed to pose no significant risk may be determined as follows:

(1) Where a state or federal agency has developed a regulatory level for a chemical known to the state to cause cancer which is calculated to result in not more than one excess case of cancer in an exposed population of 100,000, such level shall constitute the no significant risk level.

(2) For drinking water, the following levels shall be deemed to pose no significant risk:

(A) Drinking water maximum contaminant levels adopted by the Department of Health Services for chemicals known to the state to cause cancer;

(B) Drinking water action levels for chemicals known to the state to cause cancer for which maximum contaminant levels have not been adopted;

(C) Specific numeric levels of concentration for chemicals known to the state to cause cancer which are permitted to be discharged or released into sources of drinking water by a Regional Water Quality Control Board in a water quality control plan or in waste discharge requirements, when such levels are based on considerations of minimizing carcinogenic risks associated with such discharge or release.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

HISTORY

1. New section filed 2–24–88 as an emergency; operative 2–27–88 (Register 88, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–27–88.
2. New section refiled 6–27–88 as an emergency; operative 6–27–88 (Register 88, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–25–88.
3. New section refiled 10–17–88 as an emergency; operative 10–25–88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–22–89.
4. Amendment filed 10–17–88 as an emergency; operative 10–27–88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–24–89.
5. Amendment filed 12–21–88 as an emergency; operative 1–1–89 (Register 89, No. 1). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–1–89.
6. New section, as amended 10–27–88 and 1–1–89, refiled 2–21–89 as an emergency; operative 2–22–89 (Register 89, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–22–89.
7. Certificate of Compliance including amendment transmitted to OAL 6–9–89 and filed 7–10–89 (Register 89, No. 30).
8. Amendment of subsection (a) filed 12–1–89; operative 12–31–89 (Register 89, No. 49).
9. Amendment of subsection (a) filed 5–16–90; operative 6–15–90 (Register 90, No. 25).
10. Amendment of subsection (a)(2) filed 5–24–90; operative 6–23–90 (Register 90, No. 25).
11. Editorial correction of printing error in subsection (a)(2) submitted to OAL for printing only 10–9–90 (Register 91, No. 3).
12. Amendment of subsection (a)(2) deleting Benzene filed 11–26–90; operative 12–26–90 (Register 91, No. 3).
13. Amendment of subsection (a)(2) filed 11–26–90; operative 12–26–90 (Register 91, No. 3).
14. Amendment of subsection (a)(2) repealing Chromium filed 9–16–92; operative 10–16–92 (Register 92, No. 38).
15. Amendment of subsection (a)(2) repealing Tetrachlorodibenzo–p–dioxin filed 9–16–92; operative 10–16–92 (Register 92, No. 38).
16. Amendment of subsection (a)(2) adding Benzyl chloride and Bromodichloromethane filed 9–16–92; operative 10–16–92 (Register 92, No. 38).
17. Amendment of subsection (a)(2) deleting trichloroethylene and vinyl chloride filed 9–24–92; operative 10–26–92 (Register 92, No. 39).
18. Repealer of subsection (a)(2) and renumbering of following subsection filed 10–9–92; operative 11–9–92 (Register 92, No. 41).
19. Amendment of subsection (a) filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
20. Change without regulatory effect renumbering title 22, section 12711 to title 27, section 25711, including amendment of subsection (a), filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25713. Exposure to Food, Drugs, Cosmetics and Medical Devices. [Repealed]

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

HISTORY

1. New section filed 2–24–88 as an emergency; operative 2–27–88 (Register 88, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–27–88.
2. New section refiled 6–27–88 as an emergency; operative 6–27–88 (Register 88, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–25–88.
3. New section refiled 10–17–88 as an emergency; operative 10–25–88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–22–89.
4. New section refiled 2–21–89 as an emergency; operative 2–22–89 (Register 89, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–22–89.
5. Certificate of Compliance including amendment transmitted to OAL 6–9–89 and filed 7–10–89 (Register 89, No. 30). This section provides interim standards pursuant to the policy of the Health and Welfare Agency and the recommendation of the Scientific Advisory Panel.
6. Repealer filed 11–16–93; operative 12–16–93 (Register 93, No. 47).
7. Change without regulatory effect renumbering title 22, section 12713 to title 27, section 25713 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25721. Level of Exposure to Chemicals Causing Cancer.

(a) For the purposes of the Act, "level in question" means the chemical concentration of a listed chemical for the exposure in question. The exposure in question includes the exposure for which the person n the course of doing business is responsible, and does not include exposure to a listed chemical from any other source or product.

(b) For purposes of the Act, "lifetime exposure" means the reasonably anticipated rate of exposure for an individual to a given medium of exposure measured over a lifetime of seventy years.

(c) For purposes of Section 25249.10(c) of the Act, the level of exposure to a chemical listed as causing cancer, assuming lifetime exposure at the level in question, shall be determined by multiplying the level in question (stated in terms of a concentration of a chemical in a given medium) times the reasonably anticipated rate of exposure for an individual to the given medium of exposure measured over a lifetime of seventy years.

(d) The following assumptions shall be used to calculate the reasonably anticipated rate of exposure to a chemical listed as causing cancer, unless more specific and scientifically appropriate data are available:

(1) For an exposure reasonably expected to affect the general population in any geographic area:

(A) The exposed individual ingests two liters of drinking water per day.

(B) The exposed individual inhales twenty cubic meters of air per day.

(C) The exposed individual has a lifespan of seventy years.

(2) For an exposure reasonably anticipated to affect a certain subpopulation of the general population in any geographic area, specific data (if available) relating to that subpopulation shall be used to determine the level of exposure.

(A) In the absence of more specific and scientifically appropriate data, the following assumptions should be made as appropriate:

Subpopulation	*Water liters/day*	*Air cubic meters/day*
Man (18 + years of age)	2	20
Woman (18 + years of age)	2	20
Woman with conceptus	2	20
Adolescent (10–18 years of age)	2	20
Child (2–10 years of age)	2	15
Infant (0–2 years of age)	1	4

(B) For an exposure reasonably expected to affect the conceptus (embryo or fetus), the gestation period for the exposed conceptus is nine months.

(3) For workplace exposures, the exposed worker inhales ten cubic meters of workplace air per eight–hour day, forty hours per week, fifty weeks per year over a forty–year period. The exposed individual from the

general population who occasionally enters a workplace inhales 1.25 cubic meters of workplace air for one hour per month for a seventy-year lifetime.

(4) For exposures to consumer products, lifetime exposure shall be calculated using the average rate of intake or exposure for average users of the consumer product, and not on a per capita basis for the general population. The average rate of intake or exposure shall be based on data for use of a general category or categories of consumer products, such as the United States Department of Agriculture Home Economic Research Report, Foods Commonly Eaten by Individuals: Amount Per Day and Per Eating Occasion, where such data are available.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

HISTORY

1. New section filed 2-24-88 as an emergency; operative 2-27-88 (Register 88, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-27-88.
2. New section refiled 6-27-88 as an emergency; operative 6-27-88 (Register 88, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10-25-88.
3. New section refiled 10-17-88 as an emergency; operative 10-25-88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2-22-89.
4. New section refiled 2-21-89 as an emergency; operative 2-22-89 (Register 89, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-22-89.
5. Certificate of Compliance including amendment transmitted to OAL 6-9-89 and filed 7-10-89 (Register 89, No. 30).
6. Amendment of section heading and subsections (c) and (d) filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).
7. Change without regulatory effect renumbering title 22, section 12721 to title 27, section 25721 filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

Article 8. No Observable Effect Levels

§ 25801. General.

(a) The determination of whether a level of exposure to a chemical known to the state to cause reproductive toxicity has no observable effect for purposes of Section 25249.10(c) of the Act shall be based on evidence and standards of comparable scientific validity to the evidence and standards which form the scientific basis for the listing of a chemical as known to the state to cause reproductive toxicity. Nothing in this article shall preclude a person from using evidence, standards, assessment methodologies, principles, assumptions or levels not described in this article to establish that a level of exposure has no observable effect at one thousand (1,000) times the level in question.

(b) A level of exposure to a listed chemical shall be deemed to have no observable effect, assuming exposure at one thousand times that level, provided that the level is determined:

(1) By means of an assessment that meets the standards described in Section 25803 to determine the maximum dose level having no observable effect, and dividing that level by one thousand (1,000) to arrive at the maximum allowable dose level; or

(2) By application of a specific regulatory level for the chemical in question as provided in Section 25805.

(c) For purposes of this article, "NOEL" shall mean that no observable effect level, which is the maximum dose level at which a chemical has no observable reproductive effect.

(d) The chemicals specifically contained in this article do not include all chemicals listed as causing reproductive toxicity for which there is a level of exposure which has no observable effect assuming exposure at one thousand times the level in question. The fact that a chemical does not specifically appear in this article does not mean that it has an observable effect at any level.

(e) This article establishes exposure levels solely for purposes of Section 25249.10(c) of the Act. Nothing in this article shall be construed to establish exposure levels for other regulatory purposes.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

HISTORY

1. New section filed 2-24-88 as an emergency; operative 2-27-88 (Register 88, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-27-88.
2. New section refiled 6-27-88 as an emergency; operative 6-27-88 (Register 88, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10-25-88.
3. New section refiled 10-17-88 as an emergency; operative 10-25-88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2-22-89.
4. New section refiled 2-21-89 as an emergency; operative 2-22-89 (Register 89, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-22-89.
5. Certificate of Compliance including amendment transmitted to OAL 6-9-89 and filed 7-10-89 (Register 89, No. 30).
6. Amendment filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).
7. Change without regulatory effect renumbering title 22, division 2, subdivision 1, chapter 3, article 8 (sections 12801-12821) to title 27, division 4, chapter 1, article 8 (sections 25801-25821) and renumbering title 22, section 12801 to title 27, section 25801, including amendment of subsections (b)(1)-(2), filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25803. Assessment.

(a) A quantitative risk assessment which conforms to this section shall be deemed to determine the level of exposure to a listed chemical which will have no observable effect, assuming exposure at one thousand times the level in question. The assessment shall be based on evidence and standards of comparable scientific validity to the evidence and standards which form the scientific basis for listing the chemical as known to the state to cause reproductive toxicity. In the absence of principles or assumptions scientifically more appropriate, based upon the available data, the following default principles and assumptions shall apply in any such assessment:

(1) Only studies producing the reproductive effect which provides the basis for the determination that a chemical is known to the state to cause reproductive toxicity shall be utilized for the determination of the NOEL. Where multiple reproductive effects provide the basis for the determination that a chemical is known to the state to cause reproductive toxicity, the reproductive effect for which studies produce the lowest NOEL shall be utilized for the determination of the NOEL. The NOEL shall be the highest dose level which results in no observable reproductive effect, expressed in milligrams of chemical per kilogram of bodyweight per day.

(2) The quality and suitability of available epidemiologic data shall be appraised to determine whether the study is appropriate as the basis of an assessment considering such factors as the selection of the exposed and reference groups, the reliable ascertainment of exposure, and completeness of follow-up. Biases and confounding factors shall be identified and quantified.

(3) Animal bioassay studies for assessment shall meet generally accepted scientific principles, including the thoroughness of experimental protocol, the degree to which dosing resembles the expected manner of human exposure, the temporal exposure pattern, the duration of study, the purity of test material, the number and size of exposed groups, and the route of exposure and the extent of occurrence of effects.

(4) The NOEL shall be based on the most sensitive study deemed to be of sufficient quality.

(5) The results obtained for the most sensitive study deemed to be of sufficient quality shall be applicable to all routes of exposure for which the results are relevant.

(6) When available data are of such quality that anatomic, physiologic, pharmacokinetic and metabolic considerations can be taken into account with confidence, they may be used in the assessment.

(7) When data do not allow the determination of a NOEL, the lowest observable effect level (LOEL) shall be divided by 10 to establish a NOEL for purposes of assessment.

(b) The NOEL shall be converted to a milligram per day dose level by multiplying the assumed human body weight by the NOEL. When the applicable reproductive effect is upon the male, human body weight of 70 kilograms shall be assumed. When the applicable reproductive effect

is upon the female or conceptus, human body weight of 58 kilograms shall be assumed.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

HISTORY

1. New section filed 2–24–88 as an emergency; operative 2–27–88 (Register 88, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–27–88.
2. New section refiled 6–27–88 as an emergency; operative 6–27–88 (Register 88, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–25–88.
3. New section refiled 10–17–88 as an emergency; operative 10–25–88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–22–89.
4. New section refiled 2–21–89 as an emergency; operative 2–22–89 (Register 89, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–22–89.
5. Certificate of Compliance including amendment transmitted to OAL 6–9–89 and filed 7–10–89 (Register 89, No. 30).
6. Amendment of subsection (a) filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
7. Change without regulatory effect renumbering title 22, section 12803 to title 27, section 25803 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25805. Specific Regulatory Levels: Chemicals Causing Reproductive Toxicity.

(a) Exposure to a chemical at a level which does not exceed the level set forth in subsection (b) for such chemical has no observable effect assuming exposure at one thousand (1,000) times that level.

(b)

Chemical Name	*Level (micrograms/day)*
Benzene	24 (oral) 49 (inhalation)
Cadmium	4.1
2,4–D butyric acid (2,4–DB, 2,4–dichlorophenoxybutyric acid)	910
1,2–Dibromo–3–chloropropane	4.3 (inhalation) 3.1 (oral)
Di(*n*–butyl)phthalate (DBP)	8.7
Di(2–ethylhexyl)phthalate (DEHP), for intravenous exposures only	4200 (adults) 600 (infant boys, age 29 days–24 months) 210 (neonatal infant boys, age 0–28 days) [Levels for male children and adolescents can be calculated by application of the default body-weights specified in Title 22, California Code of Regulations, Section 12703(a)(8) to the procedure specified in Title 22, California Code of Regulations, Sections 12801 and 12803]
Di(2–ethylhexyl)phthalate (DEHP), for oral exposures only	410 (adults) 58 (infant boys, age 29 days–24 months) 20 (neonatal infant boys, age 0–28 days) [Levels for male children and adolescents can be calculated by application of the default body-weights specified in Title 22, California Code of Regulations, Section 12703(a)(8) to the procedure specified in Title 22, California Code of Regulations, Sections 12801 and 12803]
m–Dinitrobenzene	38 (oral)
Disodium cyanodithioimidocarbonate	56 (oral) [170 (oral) as 32% pesticidal formulation]
Ethyl dipropylthiocarbamate	700 (oral and inhalation) 6700 (dermal)
Ethylene glycol monoethyl ether (EGEE)	750 (oral) 960 (inhalation)
Ethylene glycol monoethyl ether acetate (EGEEA)	1100 (oral) 1400 (inhalation)
Ethylene glycol monomethyl ether	63 (oral)
Ethylene glycol monomethyl ether acetate	98 (oral)
Ethylene oxide	20.0
Hydramethylnon	120 (oral)
Lead	0.5
Linuron	460
Methyl bromide as a structural fumigant	810 (inhalation)
N–Methylpyrrolidone	3200 (inhalation) 17000 (dermal)
Potassium dimethyldithiocarbamate	720
Quizalofop ethyl	590
Sodium dimethyldithiocarbamate	23 (oral) [58 (oral) as 40% pesticidal formulation]
Thiophanate–methyl	600 (oral)
Toluene	7000

(c) Unless a specific level is otherwise provided in this section, an assessment by an agency of the state or federal government that is the substantial equivalent of the assessment described in subsection (a) of Section 25803, and establishes a maximum allowable dose level in the manner provided in paragraph (b)(1) of Section 25801, shall constitute the allowable dose level having no observable effect within the meaning of Section 25249.10(c) of the Act.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

HISTORY

1. New section filed 2–24–88 as an emergency; operative 2–27–88 (Register 88, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–27–88.
2. New section refiled 6–27–88 as an emergency; operative 6–27–88 (Register 88, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–25–88.
3. New section refiled 10–17–88 as an emergency; operative 10–25–88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–22–89.
4. New section refiled 2–21–89 as an emergency; operative 2–22–89 (Register 89, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–22–89.
5. Certificate of Compliance transmitted to OAL 6–9–89 and filed 7–10–89 (Register 89, No. 30).
6. Amendment of subsection (b) filed 4–9–92; operative 5–11–92 (Register 92, No. 15).
7. Amendment of subsection (b) filed 7–18–2002; operative 8–17–2002 (Register 2002, No. 29).
8. Amendment of section heading and subsection (c) filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).
9. Amendment of subsection (b) filed 2–25–2003; operative 3–27–2003 (Register 2003, No. 9).
10. Amendment of section heading and subsection (b) filed 7–1–2003; operative 7–31–2003 (Register 2003, No. 27).

11. Amendment of section heading and subsection (b) filed 12-23-2004; operative 1-22-2005 (Register 2004, No. 52).
12. Amendment of subsection (b) filed 8-12-2005; operative 9-11-2005 (Register 2005, No. 32).
13. Amendment of subsection (b) filed 5-19-2006; operative 6-18-2006 (Register 2006, No. 20).
14. Amendment of subsection (b) filed 8-3-2006; operative 9-2-2006 (Register 2006, No. 31).
15. Amendment of subsection (b) filed 8-31-2007; operative 9-30-2007 (Register 2007, No. 35).
16. Change without regulatory effect renumbering title 22, section 12805 to title 27, section 25805, including amendment of subsection (c), filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).
17. Amendment of subsection (b) filed 6-23-2008; operative 7-23-2008 (Register 2008, No. 26).

§ 25821. Level of Exposure to Chemicals Causing Reproductive Toxicity.

(a) For purposes of the Act, "level in question" means the chemical concentration of a listed chemical for the exposure in question. The exposure in question includes the exposure for which the person in the course of doing business is responsible, and does not include exposure to a listed chemical from any other source or product.

(b) For purposes of Section 25249.10(c) of the Act, the level of exposure to a chemical listed as causing reproductive toxicity shall be determined by multiplying the level in question (stated in terms of a concentration of a chemical in a given medium) times the reasonably anticipated rate of exposure for an individual to a given medium. The reasonably anticipated rate of exposure shall be based on the pattern and duration of exposure that is relevant to the reproductive effect which provided the basis for the determination that a chemical is known to the state to cause reproductive toxicity. (For example, an exposure of short duration is appropriate for a teratogenic chemical, whereas a chronic or protracted exposure is appropriate for one that retards fetal growth.)

(c) The following assumptions shall be used to calculate the reasonably anticipated rate of exposure to a chemical listed as causing reproductive toxicity, unless more specific and scientifically appropriate data are available:

(1) The assumptions set forth in subsection (d) of Section 25721 shall be used to calculate the reasonably anticipated rate of exposure to a chemical listed as causing reproductive toxicity, unless more specific and scientifically appropriate data are available.

(2) For exposures to consumer products, the level of exposure shall be calculated using the reasonably anticipated rate of intake or exposure for average users of the consumer product, and not on a per capita basis for the general population. The rate of intake or exposure shall be based on data for use of a general category or categories of consumer products, such as the United States Department of Agriculture Home Economic Research Report, Foods Commonly Eaten by Individuals: Amount Per Day and Per Eating Occasion, where such data are available.

(3) Where a maternal exposure to a chemical listed as causing reproductive toxicity has an effect on the conceptus (embryo or fetus), the level of exposure shall be based on the reasonably anticipated rate of exposure for the mother during the nine-month gestation period.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

HISTORY

1. New section filed 2-24-88 as an emergency; operative 2-27-88 (Register 88, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-27-88.
2. New section refiled 6-27-88 as an emergency; operative 6-27-88 (Register 88, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10-25-88.
3. New section refiled 10-17-88 as an emergency; operative 10-25-88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2-22-89.
4. New section refiled 2-21-89 as an emergency; operative 2-22-89 (Register 89, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-22-89.
5. Certificate of Compliance including amendment transmitted to OAL 6-9-89 and filed 7-10-89 (Register 89, No. 30).
6. Amendment of section heading and section filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).
7. Change without regulatory effect renumbering title 22, section 12821 to title 27, section 25821 filed 6-18-2008, including amendment of subsection (c)(1), pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

Article 9. Miscellaneous

§ 25900. Use of Specified Methods of Detection and Analysis as a Defense to an Enforcement Action.

(a) For purposes of Section 25249.5 of the Act, no knowing discharge or release, and for purposes of Section 25249.6 no knowing and intentional exposure occurs if a person in the course of doing business, otherwise responsible for an alleged release, discharge or exposure can show all of the following:

(1) That he or she has properly applied a method of detection and analysis as defined in subsection (g) below for the chemical in question at any time within the year prior to the service or filing of a notice or complaint concerning an alleged discharge, release or exposure to the chemical in question;

(2) That such method of detection and analysis was applied to the same matrix as defined in subsection (g) below, in which the discharge, release or exposure is alleged to have occurred or to be occurring;

(3) That the method of detection and analysis was conducted by a laboratory certified by the State of California or accredited by the State of California, a federal agency, the National Environmental Laboratory Accreditation Program or similar nationally recognized accrediting organization to perform the particular method of detection and analysis in question; and

(4) That all the reported results show that the chemical in question was not detected.

(b) The methods of detection and analysis that may be relied on for purposes of subsection (a) are those that are required or sanctioned by the federal Food and Drug Administration, the U.S. Environmental Protection Agency, the federal Occupational Safety and Health Administration, the National Institute of Occupational Safety and Health, the federal Consumer Product Safety Commission, the California Department of Health Services, the California Environmental Protection Agency and its constituent boards, departments or office; an Air District, a Regional Water Quality Control Board, a Certified Unified Program Agency, or other local enforcement agency in California with jurisdiction over the product or activity that is the cause of the alleged discharge, release or exposure.

(c) Where more than one method of detection and analysis exists that meets the criteria specified in subsection (b), the person in the course of doing business who seeks to rely on the reported results of that method of detection and analysis pursuant to subsection (a), must either use a method of detection and analysis required by that person's permit to be used for detecting or measuring the chemical in question in the relevant matrix; or the person must use the most sensitive method of detection and analysis that meets the requirements of subsection (b).

(d) In any enforcement action for an alleged violation of Section 25249.5 or 25249.6 of the Act, the person asserting this section as an affirmative defense shall have the burden of proof as to all the facts that establish such defense including the burden of proving that all material protocols and procedures specified by the agency that requires or sanctions the method of detection and analysis applied, have been followed.

(e) Except as provided in subsection (a) of this section, nothing in this section restricts a plaintiff from proving an alleged discharge, release or exposure by any admissible evidence or a defendant from proving the absence of an alleged discharge, release or exposure by any admissible evidence, except that an alleged discharge, release, or exposure may not be established solely by applying a scientific inference that a listed chemical is present in a particular matrix at one half the limit of detection for the applicable method of detection and analysis.

(f) Nothing in this section requires any person in the course of doing business to conduct routine tests for discharges, releases or exposures to listed chemicals that may be subject to the provisions of the Act.

(g) For purposes of this section, the following definitions apply:

(1) "Method of detection and analysis" means a specific analytical testing procedure appropriate for detecting a particular chemical in a particular matrix such as air, water, soil or food that is applied for the purpose of detecting the chemical or measuring its concentration.

(2) "Matrix" means the component or substrate that contains the chemical in question.

(3) The phrase "required or sanctioned" means that an agency listed in subsection (b) has identified the method of detection and analysis in a permit (as defined below), regulation, guideline or other official action of the agency that specifies or requires the use of that method of detection and analysis for purposes of detecting or measuring the concentration of the chemical in question in the relevant matrix.

(4) "Permit" means a document, license, registration, certificate, or other written means of authorization necessary for a business activity.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6 and 25249.11, Health and Safety Code.

HISTORY

1. New section filed 3-9-2006; operative 4-8-2006 (Register 2006, No. 10).
2. Change without regulatory effect renumbering title 22, division 2, subdivision 1, chapter 3, article 9 (sections 12900-12903 and Appendix A) to title 27, division 4, chapter 1, article 9 (sections 25900-25903 and Appendix A) and renumbering title 22, section 12900 to title 27, section 25900 filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25901. Methods of Detection. [Repealed]

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6 and 25249.11, Health and Safety Code.

HISTORY

1. New section filed 2-24-88 as an emergency; operative 2-27-88 (Register 88, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-27-88.
2. New section refiled 6-27-88 as an emergency; operative 6-27-88 (Register 88, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10-25-88.
3. New section with amendment of subsections (a) and (b), renumbering and amendment of subsections (c) and (d) to subsections (e) and (f), and new subsections (c), (d) and (g) refiled 10-21-88 as an emergency; operative 10-25-88 (Register 88, No. 44). A Certification of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2-22-89.
4. New section, as amended 10-25-88, refiled 2-21-89 as an emergency; operative 2-22-89 (Register 89, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-22-89.
5. New section refiled 6-19-89 as an emergency; operative 6-22-89 (Register 89, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10-20-89.
6. Certificate of Compliance as to 6-19-89 order transmitted to OAL 10-20-89 and filed 11-20-89 (Register 89, No. 48).
7. Amendment filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).
8. Change without regulatory effect amending subsection (b) filed 9-11-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 37).
9. Repealer filed 3-3-2005; operative 4-2-2005 (Register 2005, No. 9).
10. Change without regulatory effect renumbering title 22, section 12901 to title 27, section 25901 filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25902. Formally Required to Be Labeled or Identified As Causing Cancer or Reproductive Toxicity.

(a) In accordance with Section 25249.8(b), of the Act, a chemical is known to the state to cause cancer or reproductive toxicity within the meaning of the Act, and shall be listed pursuant to Section 25249.8(a), of the Act, if the lead agency determines that an agency of the state or federal government has formally required the chemical to be labeled or identified as causing cancer or reproductive toxicity. In making such determination, the lead agency shall act in accordance with this section.

(b) The following definitions shall apply to this section:

(1) "agency of the state or federal government" means the United States Congress or the California State Legislature acting through legislation, any agency, department, office, officer, division, bureau, board, or commission of California state government (excluding political subdivisions thereof) or of the United States government, which has the statutory or regulatory authority to require a person or entity outside of that agency to label or identify a chemical as causing cancer or reproductive toxicity.

(2) "formally required" means that a mandatory instruction, order, condition, or similar command, has been issued in accordance with established policies and procedures of an agency of the state or federal government, to a person or legal entity outside of the agency. The action of such agency may be directed at one or more persons or legal entities and may include formal requirements of general application.

(3) "labeled" means that a warning message about the carcinogenicity or reproductive toxicity of a chemical is printed, stamped, written, or in any other manner placed upon the container in which the chemical is present or its outer or inner packaging including any material inserted with, attached to, or otherwise accompanying such chemical.

(4) "identified" means that a required message about the carcinogenicity or reproductive toxicity of the chemical is to be disclosed in any manner to a person or legal entity other than the person or legal entity who is required to make such disclosure.

(5) "as causing cancer or reproductive toxicity" means:

(A) For chemicals that cause cancer, the required label or identification uses any words or phrases intended to communicate a risk of cancer or tumors.

(B) For chemicals that cause reproductive toxicity, the required label or identification uses any words or phrases intended to communicate a risk of reproductive harm to men or women or both, or a risk of birth defects or other developmental harm.

(c) Any person may petition the lead agency to consider listing a chemical pursuant to this section. The petition shall be considered only if the petition contains sufficient information to support a determination by the lead agency that substantial evidence exists to support a finding that the chemical meets the requirements of this section.

(d) Any determination by the lead agency under this section may be rescinded or modified in light of additional evidence received by the lead agency establishing that the listing does not satisfy the definitions set forth in this section. Any such action to rescind or modify shall be done pursuant to this section.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Section 25249.8, Health and Safety Code.

HISTORY

1. New section filed 3-1-90; operative 3-31-90 (Register 90, No. 11).
2. Amendment of subsection (a), repealer of subsection (b)(1), subsection renumbering and amendment of newly designated subsection (b)(2) filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).
3. Change without regulatory effect renumbering title 22, section 12902 to title 27, section 25902 filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 25903. Notices of Violation.

(a) For purposes of Section 25249.7(d) of the Act, "notice of the violation which is the subject of the action" (hereinafter "notice") shall mean a notice meeting all requirements of this section. No person shall commence an action to enforce the provisions of the Act "in the public interest" pursuant to Section 25249.7(d) of the Act except in compliance with all requirements of this section.

(b) Contents of Notice.

(1) General Information. Each notice shall include as an attachment a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" (see Appendix A) prepared by the lead agency. This attachment need not be included in the copies of notices sent to public enforcement agencies. A copy of this attachment may be obtained by writing to the Office of Environmental Health Hazard Assessment at P.O. Box 4010, Sacramento, CA 95812-4010.

(2) Description of Violation. A notice shall provide adequate information from which to allow the recipient to assess the nature of the alleged violation, as set forth in this paragraph. The provisions of this paragraph shall not be interpreted to require more than reasonably clear information, expressed in terms of common usage and understanding, on each of the indicated topics.

(A) For all notices, the notice shall identify:

1. the name, address, and telephone number of the noticing individual or a responsible individual within the noticing entity and the name of the entity;

2. the name of the alleged violator or violators;

3. the approximate time period during which the violation is alleged to have occurred; and

4. the name of each listed chemical involved in the alleged violation;

(B) For notices of violations of Section 25249.5 of the Act, a general identification of the discharge or release and of the source of drinking water into which the discharges are alleged to have occurred, to be occurring or to be likely to occur.

(C) For all notices of violation of Section 25249.6 of the Act, the route of exposure by which exposure is alleged to occur (e.g., by inhalation, ingestion, dermal contact);

(D) For notices of violation of Section 25249.6 of the Act involving consumer product exposures, the name of the consumer product or service, or the specific type of consumer product or services, that cause the violation, with sufficient specificity to inform the recipients of the nature of the items allegedly sold in violation of the law and to distinguish those products or services from others sold or offered by the alleged violator for which no violation is alleged. The identification of a chemical pursuant to subsection (b)(2)(A)4. must be provided for each product or service identified in the notice.

(E) For notices of violation of Section 25249.6 of the Act involving occupational exposures:

1. the general geographic location of the unlawful exposure to employees, or where the exposure occurs at many locations, a description of the occupation or type of task performed by the exposed persons;

2. where the alleged violator is the manufacturer or distributor of the chemical or products causing the exposure, the notice shall identify products in the same manner as set forth for consumer product exposures in subparagraph (b)(2)(D), above;

(F) For notices of violation of Section 25249.6 of the Act involving environmental exposures as defined in subsection 25601(d) of this chapter, the notice shall identify, the location of the source of the exposure. Where numerous sources of the exposure are alleged, the location need not be listed if the notice identifies each facility or source of exposure by stating those common characteristics that result in the allegedly unlawful exposure in a manner sufficient to distinguish those facilities or sources from others for which no violation is alleged. The notice shall state whether the exposure for which a warning allegedly is required occurs beyond the property owned or controlled by the alleged violators.

(3) Where the alleged violations fall within more than one of the categories described in subparagraph (b)(2)(B) to (b)(2)(F) above, then the notice shall comply with all applicable requirements.

(4) A notice is not required to contain the following information:

(A) The specific retail outlet or time or date at which any product allegedly violating the Act was purchased;

(B) The level of exposure to the chemical in question;

(C) The specific admissible evidence by which the person providing the notice will attempt to prove the violation;

(D) For products, the UPC number, SKU number, model or design number or stock number or other more specific identification of products;

(E) For geographic areas, the lot, block, or other legal description of the property in question.

(c) Service of Notice.

(1) Notices shall be served by first class mail or in any manner that would be sufficient for service of a summons and complaint under the California Code of Civil Procedure.

(2) A certificate of service shall be attached to each notice listing the time, place, and manner of service and each of the parties upon which the notice was served.

(3) Notices shall be served upon each alleged violator, the Attorney General, the district attorney of every county in which a violation is alleged to have occurred, and upon the city attorneys of any cities with populations according to the most recent decennial census of over 750,000 and in which the violation is alleged to have occurred.

(4) Where the alleged violator has a current registration with the California Secretary of State that identifies a Chief Executive Officer, President, or General Counsel of the corporation, the notice shall be addressed to one of those persons.

(d) Computation of Time.

(1) An action is deemed to have been "commenced more than sixty days after the person has given notice" where more than sixty days have elapsed from the date of service of the notice, as that date would be calculated for service of a document pursuant to the provisions of Code of Civil Procedure Section 1013.

(2) Where the sixtieth day after giving notice is a day identified as a "holiday" as defined in Code of Civil Procedure Section 12a, then the "sixtieth day" shall be extended to the next day which is not a "holiday".

(3) Determination of the first and last day shall be made in accordance with Section 12 of the Code of Civil Procedure.

NOTE: Authority cited: Sections 25249.12, Health and Safety Code. Reference: Section 25249.7, Health and Safety Code.

HISTORY

1. New section and Appendix A filed 4–22–97; operative 4–22–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 17).

2. Amendment of section and Appendix A filed 1–7–2003; operative 2–6–2003 (Register 2003, No. 2).

3. Change without regulatory effect renumbering title 22, section 12903 and Appendix A to title 27, section 25903 and Appendix A, including amendment of subsection (b)(2)(F) and appendix, filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

Appendix A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the Office of Environmental Health Hazard Assessment, the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and its implementing regulations (see citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 22 of the California Code of Regulations, Sections 12000 through 14000.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List." Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 735 chemical listings have been included as of November 16, 2001. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving those chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of listing of the chemical.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "no significant risk" levels for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm ("reproductive toxicants"), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level (NOEL)," divided by a 1,000-fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharges that do not result in a "significant amount" of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" or "no observable effect" test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 22, California Code of Regulations, Section 25903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to $2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

FOR FURTHER INFORMATION. . .

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900.

§ 27000. Chemicals Required by State or Federal Law to Have Been Tested for Potential to Cause Cancer or Reproductive Toxicity, but Which Have Not Been Adequately Tested As Required.

(a) The Safe Drinking Water and Toxic Enforcement Act of 1986 requires the Governor to publish a list of chemicals formally required by state or federal agencies to have testing for carcinogenicity or reproductive toxicity, but that the state's qualified experts have not found to have been adequately tested as required [Health and Safety Code Section 25249.8(c)].

Readers should note a chemical that already has been designated as known to the state to cause cancer or reproductive toxicity is not included in the following listing as requiring additional testing for that particular toxicological endpoint. However, the "data gap" may continue to exist, for purposes of the state or federal agency's requirements. Additional information on the requirements for testing may be obtained from the specific agency identified below.

(b) Chemicals required to be tested by the California Department of Pesticide Regulation.

The Birth Defect Prevention Act of 1984 (SB 950) mandates that the California Department of Pesticide Regulation (CDPR) review chronic toxicology studies supporting the registration of pesticidal active ingredients. Missing or unacceptable studies are identified as data gaps. The studies are conducted to fulfill generic data requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), which is administered by the United States Environmental Protection Agency (U.S. EPA). The studies are reviewed by CDPR according to guidelines and standards promulgated under FIFRA. Thus, older studies may not meet current guidelines.

The existence of a data gap for a compound does not indicate a total lack of information on the carcinogenicity or reproductive toxicity of the compound. In some cases, information exists in the open scientific literature, but SB 950 requires specific additional information. A data gap does not necessarily indicate that an oncogenic or reproductive hazard exists. For the purposes of this list, a data gap is still considered to be present until the study is reviewed and found to be acceptable.

Following is a listing of SB 950 data gaps for oncogenicity, reproduction, and teratology studies for the non–200 pesticidal active ingredients. This list will change as data gaps are filled by additional data or replacement studies.

For purposes of this section, "onc mouse" means oncogenicity in mice, "onc rat" means oncogenicity in rats, "repro" means reproduction, "tera rat" means teratogenicity in rats, "tera rabbit" means teratogenicity in rabbits.

Chemical	*Testing Needed*
Acid Blue 9*	onc rat, onc mouse, repro, tera rat, tera rabbit
Acid Yellow 23*	onc rat, onc mouse, repro
Agrobacterium radiobacter*	onc rat, onc mouse, repro, tera rat, tera rabbit
Alkyl–1,3–propylene diamine acetate alkyl	tera rat, tera rabbit (only one required)
Alkyl amino–3–amino propane hydroxy acetate alkyl derived from coconut oil fatty acids	tera rat, tera rabbit (only one required)
Ammonium thiosulfate*	onc rat, onc mouse, repro, tera rat, tera rabbit
Borax*	onc rat, repro
Bromadiolone*	onc rat, onc mouse, repro, tera rabbit
Butoxy polypropylene glycol*	onc rat, onc mouse, repro, tera rat, tera rabbit
Butoxy polypropoxy polyethoxy ethanol — iodine complex*	tera rat
Castor oil*	onc rat, onc mouse, repro, tera rat, tera rabbit
Chlorophacinone*	onc rat, onc mouse, repro
Chromic acid*	onc mouse, repro, tera rabbit
Copper salts of fatty and rosin acids*	onc rat, onc mouse, repro, tera rat, tera rabbit
Disodium octaborate tetrahydrate	onc rat, repro
Menthol*	onc rat, onc mouse, repro, tera rat, tera rabbit
Meta–cresol*	tera rat, onc rat, onc mouse, repro, tera rabbit
Methoprene*	onc mouse, onc rat, repro, tera rat, tera rabbit
Methyl isothiocyanate*	repro
2,2–(Methyl trimethylene dioxy)bis–(4–methyl–1,3,2–dioxaborinane)*	onc rat, onc mouse, repro, tera rabbit
Mineral oil*	onc rat, repro, tera rabbit
Muscalure*	Tera rat, tera rabbit (only one required)
Petroleum distillates*	onc rat, onc mouse, repro, tera rat, tera rabbit
Petroleum distillates, refined*	onc rat, onc mouse, repro, tera rat, tera rabbit
Petroleum oil, paraffin based*	onc rat, onc mouse, repro, tera rat, tera rabbit
Petroleum oil, unclassified*	onc rat, onc mouse, repro, tera rat, tera rabbit
Polyethoxy polypropoxy polyethoxy ethanol–iodine complex*	tera rat
Propylene oxide*	tera rabbit, repro, tera rat
Sabadilla alkaloids*	onc rat, onc mouse, repro, tera rabbit
Sodium chlorate*	onc rat, onc mouse, repro, tera rabbit
Sodium fluoride*	onc rat, onc mouse, repro, tera rat, tera rabbit
Sodium metaborate	onc rat, repro
Sodium phenate*	tera rat
Tetraglycine hydroperiodide*	tera rat, tera rabbit (only one required)
Triethylene glycol*	onc rat, onc mouse, repro, tera rat, tera rabbit
2,4–Xylenol*	onc rat, onc mouse, repro, tera rat, tera rabbit

*Claims are pending review that data should not be required.

(c) Chemicals required to be tested by the U.S. EPA, Office of Toxic Substances.

Under Section 4(a) of the Toxic Substances Control Act, testing of a chemical is required when that chemical may present an unreasonable risk, or is produced in substantial quantities and enters the environment in substantial quantities, or may have significant or substantial human exposure.

For purposes of this section, "tera" means teratogenicity, "rtox" means reproductive toxicity, "onc" means oncogenicity.

Chemical	*Testing Needed*
Ethylene dichloride	rtox
1,1,2–Trichloroethane	onc, rtox, tera

NOTE: The testing of the above chemicals is being carried out under "Enforceable Consent Agreements" (or ECAs) under Section 4 of TSCA. In addition, there are a number of ongoing TSCA testing action development activities that may be of interest in the context of Proposition 65. When promulgated, these TSCA Section 4 Test Rules and/or ECAs will require industry to conduct reproductive toxicity, developmental toxicity, and/or cancer studies on a number of 1) hazardous air pollutants (or HAPs), 2) chemicals frequently found at Superfund sites, and 3) U.S. high production volume (or HPV) chemicals. As these, and possibly other, TSCA Section 4 Test Rules/ECAs become effective, this table will be revised to reflect those additional chemical substances for which developmental toxicity, reproductive toxicity, and/or oncogenicity testing is currently being required under Section 4 of TSCA.

(d) Chemicals required to be tested by the U.S. EPA, Office of Pesticide Programs

The U.S. EPA is responsible for the regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). FIFRA requires U.S. EPA to register pesticides based on data adequate to demonstrate that they will not result in unreasonable adverse effects to people or the environment when used in accordance with their U.S. EPA–approved labels.

In 1988, FIFRA was amended to strengthen U.S. EPA's pesticide regulatory authority and responsibilities to reregister pesticides registered prior to 1984 to ensure they meet today's stringent scientific and regulatory standards. Reregistration requires registrants to develop up–to–date data bases for each pesticide active ingredient. As part of the reregistration process, modifications may be made to registrations, labels or tolerances to ensure they are protective of human health and the environment. Also, reregistration reviews will identify any pesticides where regulatory

action may be necessary to deal with unreasonable risks. U.S. EPA has been directed to accelerate the reregistration process so that the entire process is completed by 1997. The 1988 amendments set out a five-phase schedule to accomplish this task with deadlines applying to both pesticide registrants and the U.S. EPA. These amendments are requiring a substantial number of new studies to be conducted and old studies to be reformatted for U.S. EPA review to ensure they are adequate. U.S. EPA may, in the future, request additional data or information to further evaluate any concerns over the safety of pesticide products.

The chemicals listed below are those for which data are unavailable or inadequate to characterize oncogenicity, teratogenicity, or reproductive effects potential. For purposes of this section, "onc" means oncogenicity, "tera" means teratogenicity, and "repro" means reproductive toxicity.

Chemical	*Data Requirements*
Acrolein	onc, tera
Alkyl imidazolines	tera
Ametryn	repro, tera
4-Aminopyridine	onc, repro, tera
4-T-Amylphenol	onc, repro
Aquashade	onc, repro, tera
Benzisothiazoline-3-one	onc, repro, tera
Bromonitrostyrene	tera
Busan 77	repro
Chlorflurenol methyl	tera
Chromated arsenicals	tera
Cypermethrin	onc
DCNA	repro
Diclofop-methyl	onc, tera
Dicrotophos	onc, repro
Dihalodialkylhydantoins	onc, repro, tera
Dimethepin	onc, repro, tera
Dimethyldithiocarbamate	onc, repro, tera
Dinocab and its compounds	tera
Dipropyl isocinchomeronate	repro
Dodine	onc, tera
Endothall and salts	onc, repro, tera
Ethofumesate	onc
Ethoxyquin	tera
Fenthion	tera
Fenvalerate	onc, repro, tera
Fluvalinate	repro, tera
Hydroxy-methyldithiocarbamate	tera
Imazalil	onc
Inorganic chlorates	onc, repro, tera
Inorganic sulfites	onc, repro, tera
Iodine-potassium iodide	tera
Iprodione	tera
Irgasan	onc, repro, tera
Lamprecide	onc
Magnesium phosphide	onc
Malathion	onc
Maneb	onc, tera
Mepiquat chloride	tera
Metaldehyde	onc
Methoxychlor	onc, repro, tera
Methyl isothiocyanate	tera
Napthaleneacetic acid	onc, repro
Naphthenate salts	tera
Napropamide	repro
Niclosamide	onc, tera
Nicotine and derivatives	onc, tera
Nitrapyrin	onc, tera
Octhilinone	tera
Oil of Pennyroyal	tera
Omadine salts	onc, repro, tera
Oxyfluorfen	onc
Pebulate	tera
Perfluidone	tera
Phenmedipham	onc
Phenol and salts	tera
2-Phenylphenol and salts	onc, tera
Pine oils	tera
Poly (hexamethylene biguanide)	onc, repro
Polyethoxylated aliphatic alcohols	onc, repro, tera
Prometon	tera
Propanil	onc, repro
Propetamphos	tera
Propiconazole	onc
Propylene oxide	tera
Pyrazon	onc, repro
Sethoxydim	onc
Siduron	onc, repro, tera
Sodium fluoride	tera
Sulfometuron-methyl	onc, tera
TBT-containing compounds	onc, tera
TCMB	onc, repro, tera
Temephos	onc, tera
Tetrachlorovinphos	onc
Tetramethrin	onc
Thiabendazole and salts	onc, repro, tera
Thidiazuron	onc, repro, tera
Thiodicarb	tera
Thiophanate-methyl	onc, tera
Triadimefon	onc
Vernolate	onc, repro

Revised: January 1, 2006

HISTORY

1. New section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 89, No. 17).
2. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 90, No. 2).
3. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 17).
4. Editorial correction of subsection (d) (Register 91, No. 31).
5. Editorial correction of printing error (Register 91, No. 43).
6. Editorial correction instituting inadvertently omitted amendment. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 93, No. 20).
7. Editorial correction of printing errors (Register 93, No. 45).
8. Amendment of subsection (d) filed 8-1-94. Submitted to OAL for printing only (Register 94, No. 31).
9. Amendment of subsections (b), (c), and (d) filed 12-23-94. Submitted to OAL for printing only (Register 95, No. 1).
10. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 95, No. 52).
11. Amendment filed 1-30-97; operative 1-30-97. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 97, No. 5).
12. Amendment of subsections (b), (c) and (d) filed 2-13-98; operative 2-13-98. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 98, No. 7).
13. Amendment of subsections (b), (c) and (d) filed 3-1-2002; operative 3-1-2002. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 2002, No. 9).
14. Amendment filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).

15. Editorial correction implementing inadvertently omitted 1-7-2003 amendments and adding HISTORY 14 (Register 2006, No. 3).
16. Amendment of subsections (b)-(d) filed 1-17-2006. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 2006, No. 3).
17. Change without regulatory effect renumbering title 22, section 14000 to title 27, section 27000 filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 27001. Chemicals Known to the State to Cause Cancer or Reproductive Toxicity.

(a) The Safe Drinking Water and Toxic Enforcement Act of 1986 requires that the Governor revise and republish at least once per year the list of chemicals known to the State to cause cancer or reproductive toxicity. The identification number indicated in the following list is the Chemical Abstracts Service (CAS) Registry Number. No CAS number is given when several substances are presented as a single listing. The date refers to the initial appearance of the chemical on the list.

(b) Chemicals known to the state to cause cancer.

Chemical	*CAS Number*	*Date*
A-alpha-C (2-Amino-9H-pyrido [2,3-b]indole)	26148-68-5	January 1, 1990
Acetaldehyde	75-07-0	April 1, 1988
Acetamide	60-35-5	January 1, 1990
Acetochlor	34256-82-1	January 1, 1989
2-Acetylaminofluorene	53-96-3	July 1, 1987
Acifluorfen	62476-59-9	January 1, 1990
Acrylamide	79-06-1	January 1, 1990
Acrylonitrile	107-13-1	July 1, 1987
Actinomycin D	50-76-0	October 1, 1989
AF-2:[2-(2-furyl)-3-(5-nitro-2-furyl)] acrylamide	3688-53-7	July 1, 1987
Aflatoxins	—	January 1, 1988
Alachlor	15972-60-8	January 1, 1989
Alcoholic beverages, when associated with alcohol abuse	—	July 1, 1988
Aldrin	309-00-2	July 1, 1988
2-Aminoanthraquinone	117-79-3	October 1, 1989
p-Aminoazobenzene	60-09-3	January 1, 1990
ortho-Aminoazotoluene	97-56-3	July 1, 1987
4-Aminobiphenyl (4-aminodiphenyl)	92-67-1	February 27, 1987
1-Amino-2,4-dibromoanthraquinone	81-49-2	August 26, 1997
3-Amino-9-ethylcarbazole hydrochloride	6109-97-3	July 1, 1989
2-Aminofluorene	153-78-6	January 29, 1999
1-Amino-2-methylanthraquinone	82-28-0	October 1, 1989
2-Amino-5-(5-nitro-2-furyl)-1,3,4-thiadiazole	712-68-5	July 1, 1987
4-Amino-2-nitrophenol	119-34-6	January 29, 1999
Amitrole	61-82-5	July 1, 1987
Analgesic mixtures containing phenacetin	—	February 27, 1987
Aniline	62-53-3	January 1, 1990
Aniline hydrochloride	142-04-1	May 15, 1998
ortho-Anisidine	90-04-0	July 1, 1987
ortho-Anisidine hydrochloride	134-29-2	July 1, 1987
Antimony oxide (Antimony trioxide)	1309-64-4	October 1, 1990
Anthraquinone	84-65-1	September 28, 2007
Aramite	140-57-8	July 1, 1987
Areca nut	—	February 3, 2006
Aristolochic acids	—	July 9, 2004
Arsenic (inorganic arsenic compounds)	—	February 27, 1987
Asbestos	1332-21-4	February 27, 1987
Auramine	492-80-8	July 1, 1987
Azacitidine	320-67-2	January 1, 1992
Azaserine	115-02-6	July 1, 1987
Azathioprine	446-86-6	February 27, 1987
Azobenzene	103-33-3	January 1, 1990
Benz[a]anthracene	56-55-3	July 1, 1987
Benzene	71-43-2	February 27, 1987
Benzidine [and its salts]	92-87-5	February 27, 1987
Benzidine-based dyes	—	October 1, 1992
Benzo[b]fluoranthene	205-99-2	July 1, 1987
Benzo[j]fluoranthene	205-82-3	July 1, 1987
Benzo[k]fluoranthene	207-08-9	July 1, 1987
Benzofuran	271-89-6	October 1, 1990
Benzo[a]pyrene	50-32-8	July 1, 1987
Benzotrichloride	98-07-7	July 1, 1987
Benzyl chloride	100-44-7	January 1, 1990
Benzyl violet 4B	1694-09-3	July 1, 1987
Beryllium and beryllium compounds	—	October 1, 1987
Betel quid with tobacco	—	January 1, 1990
Betel quid without tobacco	—	February 3, 2006
2,2-Bis(bromomethyl)-1,3-propanediol	3296-90-0	May 1, 1996
Bis(2-chloroethyl)ether	111-44-4	April 1, 1988
N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlornapazine)	494-03-1	February 27, 1987
Bischloroethyl nitrosourea (BCNU) (Carmustine)	154-93-8	July 1, 1987
Bis(chloromethyl)ether	542-88-1	February 27, 1987
Bis(2-chloro-1-methylethyl)ether, technical grade	—	October 29, 1999
Bitumens, extracts of steam-refined and air refined	—	January 1, 1990
Bracken fern	—	January 1, 1990
Bromate	15541-45-4	May 31, 2002
Bromodichloromethane	75-27-4	January 1, 1990
Bromoethane	74-96-4	December 22, 2000
Bromoform	75-25-2	April 1, 1991
1,3-Butadiene	106-99-0	April 1, 1988

Chemical	*CAS Number*	*Date*
1,4–Butanediol dimethanesulfonate (Busulfan)	55–98–1	February 27, 1987
Butylated hydroxyanisole	25013–16–5	January 1, 1990
beta–Butyrolactone	3068–88–0	July 1, 1987
Cacodylic acid	75–60–5	May 1, 1996
Cadmium and cadmium compounds	—	October 1, 1987
Caffeic acid	331–39–5	October 1, 1994
Captafol	2425–06–1	October 1, 1988
Captan	133–06–2	January 1, 1990
Carbazole	86–74–8	May 1, 1996
Carbon black (airborne, unbound particles of respirable size)	1333–86–4	February 21, 2003
Carbon tetrachloride	56–23–5	October 1, 1987
Carbon–black extracts	—	January 1, 1990
N–Carboxymethyl–N–nitrosourea	60391–92–6	January 25, 2002
Catechol	120–80–9	July 15, 2003
Ceramic fibers (airborne particles of respirable size)	—	July 1, 1990
Certain combined chemotherapy for lymphomas	—	February 27, 1987
Chlorambucil	305–03–3	February 27, 1987
Chloramphenicol	56–75–7	October 1, 1989
Chlordane	57–74–9	July 1, 1988
Chlordecone (Kepone)	143–50–0	January 1, 1988
Chlordimeform	6164–98–3	January 1, 1989
Chlorendic acid	115–28–6	July 1, 1989
Chlorinated paraffins (Average chain length, C12; approximately 60 percent chlorine by weight)	108171–26–2	July 1, 1989
p–Chloroaniline	106–47–8	October 1, 1994
p–Chloroaniline hydrochloride	20265–96–7	May 15, 1998
Chloroethane (Ethyl chloride)	75–00–3	July 1, 1990
1–(2–Chloroethyl)–3–cyclohexyl–1–nitrosourea (CCNU) (Lomustine)	13010–47–4	January 1, 1988
1–(2–Chloroethyl)–3–(4–methylcyclohexyl)–1–nitrosourea (Methyl–CCNU)	13909–09–6	October 1, 1988
Chloroform	67–66–3	October 1, 1987
Chloromethyl methyl ether (technical grade)	107–30–2	February 27, 1987
3–Chloro–2–methylpropene	563–47–3	July 1, 1989
1–Chloro–4–nitrobenzene	100–00–5	October 29, 1999
4–Chloro–ortho–phenylenediamine	95–83–0	January 1, 1988
p–Chloro–o–toluidine	95–69–2	January 1, 1990
p–Chloro–*o*–toluidine, strong acid salts of	—	May 15, 1998
5–Chloro–o–toluidine and its strong acid salts	—	October 24, 1997
Chloroprene	126–99–8	June 2, 2000
Chlorothalonil	1897–45–6	January 1, 1989
Chlorotrianisene	569–57–3	September 1, 1996
Chlorozotocin	54749–90–5	January 1, 1992
Chromium (hexavalent compounds)	—	February 27, 1987
Chrysene	218–01–9	January 1, 1990
C. I. Acid Red 114	6459–94–5	July 1, 1992
C.I. Basic Red 9 monohydrochloride	569–61–9	July 1, 1989
C.I. Direct Blue 15	2429–74–5	August 26, 1997
C.I. Direct Blue 218	28407–37–6	August 26, 1997
C.I. Solvent Yellow 14	842–07–9	May 15, 1998
Ciclosporin (Cyclosporin A; Cyclosporine)	59865–13–3 79217–60–0	January 1, 1992
Cidofovir	113852–37–2	January 29, 1999
Cinnamyl anthranilate	87–29–6	July 1, 1989
Cisplatin	15663–27–1	October 1, 1988
Citrus Red No. 2	6358–53–8	October 1, 1989
Clofibrate	637–07–0	September 1, 1996
Cobalt metal powder	7440–48–4	July 1, 1992
Cobalt [II] oxide	1307–96–6	July 1, 1992
Cobalt sulfate	10124–43–3	May 20, 2005
Cobalt sulfate heptahydrate	10026–24–1	June 2, 2000
Coke oven emissions	—	February 27, 1987
Conjugated estrogens	—	February 27, 1987
Creosotes	—	October 1, 1988
para–Cresidine	120–71–8	January 1, 1988
Cupferron	135–20–6	January 1, 1988
Cycasin	14901–08–7	January 1, 1988
Cyclophosphamide (anhydrous)	50–18–0	February 27, 1987
Cyclophosphamide (hydrated)	6055–19–2	February 27, 1987
Cytembena	21739–91–3	May 15, 1998
D&C Orange No. 17	3468–63–1	July 1, 1990
D&C Red No. 8	2092–56–0	October 1, 1990
D&C Red No. 9	5160–02–1	July 1, 1990
D&C Red No. 19	81–88–9	July 1, 1990
Dacarbazine	4342–03–4	January 1, 1988
Daminozide	1596–84–5	January 1, 1990
Dantron (Chrysazin; 1,8–Dihydroxyanthraquinone)	117–10–2	January 1, 1992
Daunomycin	20830–81–3	January 1, 1988
DDD (Dichlorodiphenyldichloroethane)	72–54–8	January 1, 1989
DDE (Dichlorodiphenyldichloroethylene)	72–55–9	January 1, 1989
DDT (Dichlorodiphenyltrichloroethane)	50–29–3	October 1, 1987
DDVP (Dichlorvos)	62–73–7	January 1, 1989
N,N′–Diacetylbenzidine	613–35–4	October 1, 1989
2,4–Diaminoanisole	615–05–4	October 1, 1990

Chemical	*CAS Number*	*Date*
2,4–Diaminoanisole sulfate	39156–41–7	January 1, 1988
4,4′–Diaminodiphenyl ether (4,4′–Oxydianiline)	101–80–4	January 1, 1988
2,4–Diaminotoluene	95–80–7	January 1, 1988
Diaminotoluene (mixed)	—	January 1, 1990
Diazoaminobenzene	136–35–6	May 20, 2005
Dibenz[a,h]acridine	226–36–8	January 1, 1988
Dibenz[a,j]acridine	224–42–0	January 1, 1988
Dibenz[a,h]anthracene	53–70–3	January 1, 1988
7H–Dibenzo[c,g]carbazole	194–59–2	January 1, 1988
Dibenzo[a,e]pyrene	192–65–4	January 1, 1988
Dibenzo[a,h]pyrene	189–64–0	January 1, 1988
Dibenzo[a,i]pyrene	189–55–9	January 1, 1988
Dibenzo[a,l]pyrene	191–30–0	January 1, 1988
1,2–Dibromo–3–chloropropane (DBCP)	96–12–8	July 1, 1987
2,3–Dibromo–1–propanol	96–13–9	October 1, 1994
Dichloroacetic acid	79–43–6	May 1, 1996
p–Dichlorobenzene	106–46–7	January 1, 1989
3,3′–Dichlorobenzidine	91–94–1	October 1, 1987
3,3′–Dichlorobenzidine dihydrochloride	612–83–9	May 15, 1998
1,4–Dichloro–2–butene	764–41–0	January 1, 1990
3,3′–Dichloro–4,4′–diaminodiphenyl ether	28434–86–8	January 1, 1988
1,1–Dichloroethane	75–34–3	January 1, 1990
Dichloromethane (Methylene chloride)	75–09–2	April 1, 1988
1,2–Dichloropropane	78–87–5	January 1, 1990
1,3–Dichloropropene	542–75–6	January 1, 1989
Dieldrin	60–57–1	July 1, 1988
Dienestrol	84–17–3	January 1, 1990
Diepoxybutane	1464–53–5	January 1, 1988
Diesel engine exhaust	—	October 1, 1990
Di(2–ethylhexyl)phthalate	117–81–7	January 1, 1988
1,2–Diethylhydrazine	1615–80–1	January 1, 1988
Diethyl sulfate	64–67–5	January 1, 1988
Diethylstilbestrol (DES)	56–53–1	February 27, 1987
Diglycidyl resorcinol ether (DGRE)	101–90–6	July 1, 1989
Dihydrosafrole	94–58–6	January 1, 1988
Diisopropyl sulfate	2973–10–6	April 1, 1993
3,3′–Dimethoxybenzidine (ortho–Dianisidine)	119–90–4	January 1, 1988
3,3′–Dimethoxybenzidine dihydrochloride (ortho–Dianisidine dihydrochloride)	20325–40–0	October 1, 1990
3,3′–Dimethoxybenzidine–based dyes metabolized to 3,3′–dimethoxybenzidine	—	June 11, 2004
4–Dimethylaminoazobenzene	60–11–7	January 1, 1988
trans–2–[(Dimethylamino)methylimino]–5–[2–(5–nitro–2–furyl)vinyl]–1,3,4–oxadiazole	55738–54–0	January 1, 1988
7,12–Dimethylbenz(a)anthracene	57–97–6	January 1, 1990
3,3′–Dimethylbenzidene (ortho–Tolidine)	119–93–7	January 1, 1988
3,3′–Dimethylbenzidine dihydrochloride	612–82–8	April 1, 1992
3,3′–Dimethylbenzidine–based dyes metabolized to 3,3′–dimethylbenzidine	—	June 11, 2004
Dimethylcarbamoyl chloride	79–44–7	January 1, 1988
1,1–Dimethylhydrazine (UDMH)	57–14–7	October 1, 1989
1,2–Dimethylhydrazine	540–73–8	January 1, 1988
Dimethyl sulfate	77–78–1	January 1, 1988
Dimethylvinylchloride	513–37–1	July 1, 1989
3,7–Dinitrofluoranthene	105735–71–5	August 26, 1997
3,9–Dinitrofluoranthene	22506–53–2	August 26, 1997
1,6–Dinitropyrene	42397–64–8	October 1, 1990
1,8–Dinitropyrene	42397–65–9	October 1, 1990
Dinitrotoluene mixture, 2,4–/2,6–	—	May 1, 1996
2,4–Dinitrotoluene	121–14–2	July 1, 1988
2,6–Dinitrotoluene	606–20–2	July 1, 1995
Di–n–propyl isocinchomeronate (MGK Repellent 326)	136–45–8	May 1, 1996
1,4–Dioxane	123–91–1	January 1, 1988
Diphenylhydantoin (Phenytoin)	57–41–0	January 1, 1988
Diphenylhydantoin (Phenytoin), sodium salt	630–93–3	January 1, 1988
Direct Black 38 (technical grade)	1937–37–7	January 1, 1988
Direct Blue 6 (technical grade)	2602–46–2	January 1, 1988
Direct Brown 95 (technical grade)	16071–86–6	October 1, 1988
Disperse Blue 1	2475–45–8	October 1, 1990
Diuron	330–54–1	May 31, 2002
Doxorubicin hydrochloride (Adriamycin)	25316–40–9	July 1, 1987
Epichlorohydrin	106–89–8	October 1, 1987
Erionite	12510–42–8/ 66733–21–9	October 1, 1988
Estradiol 17B	50–28–2	January 1, 1988
Estragole	140–67–0	October 29, 1999
Estrogens, steroidal	—	August 19, 2005
Estrone	53–16–7	January 1, 1988
Estropipate	7280–37–7	August 26, 1997
Ethinylestradiol	57–63–6	January 1, 1988
Ethoprop	13194–48–4	February 27, 2001
Ethyl acrylate	140–88–5	July 1, 1989
Ethylbenzene	100–41–4	June 11, 2004
Ethyl methanesulfonate	62–50–0	January 1, 1988
Ethyl–4,4′–dichlorobenzilate	510–15–6	January 1, 1990
Ethylene dibromide	106–93–4	July 1, 1987

Chemical	*CAS Number*	*Date*
Ethylene dichloride (1,2–Dichloroethane)	107–06–2	October 1, 1987
Ethylene oxide	75–21–8	July 1, 1987
Ethylene thiourea	96–45–7	January 1, 1988
Ethyleneimine	151–56–4	January 1, 1988
Fenoxycarb	72490–01–8	June 2, 2000
Folpet	133–07–3	January 1, 1989
Formaldehyde (gas)	50–00–0	January 1, 1988
2–(2–Formylhydrazino)–4–(5–nitro–2–furyl) thiazole	3570–75–0	January 1, 1988
Fumonisin B_1	116355–83–0	November 14, 2003
Furan	110–00–9	October 1, 1993
Furazolidone	67–45–8	January 1, 1990
Furmecyclox	60568–05–0	January 1, 1990
Fusarin C	79748–81–5	July 1, 1995
Ganciclovir sodium	82410–32–0	August 26, 1997
Gasoline engine exhaust (condensates/extracts)	—	October 1, 1990
Gemfibrozil	25812–30–0	December 22, 2000
Glasswool fibers (airborne particles of respirable size)	—	July 1, 1990
Glu–P–1 (2–Amino–6–methyldipyrido [1,2–a:3′,2′–d] imidazole)	67730–11–4	January 1, 1990
Glu–P–2 (2–Aminodipyrido [1,2–a:3′, 2′–d]–imidazole)	67730–10–3	January 1, 1990
Glycidaldehyde	765–34–4	January 1, 1988
Glycidol	556–52–5	July 1, 1990
Griseofulvin	126–07–8	January 1, 1990
Gyromitrin (Acetaldehyde methylformylhydrazone)	16568–02–8	January 1, 1988
HC Blue 1	2784–94–3	July 1, 1989
Heptachlor	76–44–8	July 1, 1988
Heptachlor epoxide	1024–57–3	July 1, 1988
Herbal remedies containing plant species of the genus Aristolochia	—	July 9, 2004
Hexachlorobenzene	118–74–1	October 1, 1987
Hexachlorocyclohexane (technical grade)	—	October 1, 1987
Hexachlorodibenzodioxin	34465–46–8	April 1, 1988
Hexachloroethane	67–72–1	July 1, 1990
2,4–Hexadienal (89% trans, trans isomer; 11% cis, trans isomer)	—	March 4, 2005
Hexamethylphosphoramide	680–31–9	January 1, 1988
Hydrazine	302–01–2	January 1, 1988
Hydrazine sulfate	10034–93–2	January 1, 1988
Hydrazobenzene (1,2–Diphenylhydrazine)	122–66–7	January 1, 1988
1–Hydroxyanthraquinone	129–43–1	May 27, 2005
Indeno [1,2,3–cd]pyrene	193–39–5	January 1, 1988
Indium phosphide	22398–80–7	February 27, 2001
IQ (2–Amino–3–methylimidazo[4,5–f] quinoline)	76180–96–6	April 1, 1990
Iprodione	36734–19–7	May 1, 1996
Iprovalicarb	140923–17–7 & 140923–25–7	June 1, 2007
Iron dextran complex	9004–66–4	January 1, 1988
Isobutyl nitrite	542–56–3	May 1, 1996
Isoprene	78–79–5	May 1, 1996
Isoxaflutole	141112–29–0	December 22, 2000
Lactofen	77501–63–4	January 1, 1989
Lasiocarpine	303–34–4	April 1, 1988
Lead acetate	301–04–2	January 1, 1988
Lead and lead compounds	—	October 1, 1992
Lead phosphate	7446–27–7	April 1, 1988
Lead subacetate	1335–32–6	October 1, 1989
Lindane and other hexachlorocyclohexane isomers	—	October 1, 1989
Lynestrenol	52–76–6	February 27, 2001
Mancozeb	8018–01–7	January 1, 1990
Maneb	12427–38–2	January 1, 1990
Me–A–alpha–C (2–Amino–3–methyl–9H–pyrido [2,3–b] indole)	68006–83–7	January 1, 1990
Medroxyprogesterone acetate	71–58–9	January 1, 1990
MeIQ(2–Amino–3,4–dimethylimidazo [4,5–f]quinoline)	77094–11–2	October 1, 1994
MeIQx(2–Amino–3,8–dimethylimidazo [4,5–f]quinoxaline)	77500–04–0	October 1, 1994
Melphalan	148–82–3	February 27, 1987
Merphalan	531–76–0	April 1, 1988
Mestranol	72–33–3	April 1, 1988
Metham sodium	137–42–8	November 6, 1998
8–Methoxypsoralen with ultraviolet A therapy	298–81–7	February 27, 1987
5–Methoxypsoralen with ultraviolet A therapy	484–20–8	October 1, 1988
2–Methylaziridine (Propyleneimine)	75–55–8	January 1, 1988
Methylazoxymethanol	590–96–5	April 1, 1988
Methylazoxymethanol acetate	592–62–1	April 1, 1988
Methyl carbamate	598–55–0	May 15, 1998
3–Methylcholanthrene	56–49–5	January 1, 1990
5–Methylchrysene	3697–24–3	April 1, 1988
4,4′–Methylene bis(2–chloroaniline)	101–14–4	July 1, 1987
4,4′–Methylene bis(N,N–dimethyl) benzenamine	101–61–1	October 1, 1989
4,4′–Methylene bis(2–methylaniline)	838–88–0	April 1, 1988
4,4′–Methylenedianiline	101–77–9	January 1, 1988

Chemical	*CAS Number*	*Date*
4,4′-Methylenedianiline dihydrochloride	13552-44-8	January 1, 1988
Methyleugenol	93-15-2	November 16, 2001
Methylhydrazine and its salts	—	July 1, 1992
Methyl iodide	74-88-4	April 1, 1988
Methylmercury compounds	—	May 1, 1996
Methyl methanesulfonate	66-27-3	April 1, 1988
2-Methyl-1-nitroanthraquinone (of uncertain purity)	129-15-7	April 1, 1988
N-Methyl-N′-nitro-N-nitrosoguanidine	70-25-7	April 1, 1988
N-Methylolacrylamide	924-42-5	July 1, 1990
Methylthiouracil	56-04-2	October 1, 1989
Metiram	9006-42-2	January 1, 1990
Metronidazole	443-48-1	January 1, 1988
Michler's ketone	90-94-8	January 1, 1988
Mirex	2385-85-5	January 1, 1988
Mitomycin C	50-07-7	April 1, 1988
Monocrotaline	315-22-0	April 1, 1988
5-(Morpholinomethyl)-3-[(5-nitro-furfurylidene)-amino]-2-oxazolidinone	139-91-3	April 1, 1988
Mustard Gas	505-60-2	February 27, 1987
MX (3-chloro-4-(dichloromethyl)-5-hydroxy-2(5H)-furanone)	77439-76-0	December 22, 2000
Nafenopin	3771-19-5	April 1, 1988
Nalidixic acid	389-08-2	May 15, 1998
Naphthalene	91-20-3	April 19, 2002
1-Naphthylamine	134-32-7	October 1, 1989
2-Naphthylamine	91-59-8	February 27, 1987
Nickel (Metallic)	7440-02-0	October 1, 1989
Nickel acetate	373-02-4	October 1, 1989
Nickel carbonate	3333-67-3	October 1, 1989
Nickel carbonyl	13463-39-3	October 1, 1987
Nickel compounds	—	May 7, 2004
Nickel hydroxide	12054-48-7; 12125-56-3	October 1, 1989
Nickelocene	1271-28-9	October 1, 1989
Nickel oxide	1313-99-1	October 1, 1989
Nickel refinery dust from the pyrometallurgical process	—	October 1, 1987
Nickel subsulfide	12035-72-2	October 1, 1987
Niridazole	61-57-4	April 1, 1988
Nitrapyrin	1929-82-4	October 5, 2005
Nitrilotriacetic acid	139-13-9	January 1, 1988
Nitrilotriacetic acid, trisodium salt monohydrate	18662-53-8	April 1, 1989
5-Nitroacenaphthene	602-87-9	April 1, 1988
o-Nitroanisole	91-23-6	October 1, 1992
Nitrobenzene	98-95-3	August 26, 1997
4-Nitrobiphenyl	92-93-3	April 1, 1988
6-Nitrochrysene	7496-02-8	October 1, 1990
Nitrofen (technical grade)	1836-75-5	January 1, 1988
2-Nitrofluorene	607-57-8	October 1, 1990
Nitrofurazone	59-87-0	January 1, 1990
1-[(5-Nitrofurfurylidene)-amino]-2-imidazolidinone	555-84-0	April 1, 1988
N-[4-(5-Nitro-2-furyl)-2-thiazolyl]acetamide	531-82-8	April 1, 1988
Nitrogen mustard (Mechlorethamine)	51-75-2	January 1, 1988
Nitrogen mustard hydrochloride (Mechlorethamine hydrochloride)	55-86-7	April 1, 1988
Nitrogen mustard N-oxide	126-85-2	April 1, 1988
Nitrogen mustard N-oxide hydrochloride	302-70-5	April 1, 1988
Nitromethane	75-52-5	May 1, 1997
2-Nitropropane	79-46-9	January 1, 1988
1-Nitropyrene	5522-43-0	October 1, 1990
4-Nitropyrene	57835-92-4	October 1, 1990
N-Nitrosodi-n-butylamine	924-16-3	October 1, 1987
N-Nitrosodiethanolamine	1116-54-7	January 1, 1988
N-Nitrosodiethylamine	55-18-5	October 1, 1987
N-Nitrosodimethylamine	62-75-9	October 1, 1987
p-Nitrosodiphenylamine	156-10-5	January 1, 1988
N-Nitrosodiphenylamine	86-30-6	April 1, 1988
N-Nitrosodi-n-propylamine	621-64-7	January 1, 1988
N-Nitroso-N-ethylurea	759-73-9	October 1, 1987
3-(N-Nitrosomethylamino)propionitrile	60153-49-3	April 1, 1990
4-(N-Nitrosomethylamino)-1-(3-pyridyl)1-butanone	64091-91-4	April 1, 1990
N-Nitrosomethylethylamine	10595-95-6	October 1, 1989
N-Nitroso-N-methylurea	684-93-5	October 1, 1987
N-Nitroso-N-methylurethane	615-53-2	April 1, 1988
N-Nitrosomethylvinylamine	4549-40-0	January 1, 1988
N-Nitrosomorpholine	59-89-2	January 1, 1988
N-Nitrosonornicotine	16543-55-8	January 1, 1988
N-Nitrosopiperidine	100-75-4	January 1, 1988
N-Nitrosopyrrolidine	930-55-2	October 1, 1987
N-Nitrososarcosine	13256-22-9	January 1, 1988
o-Nitrotoluene	88-72-2	May 15, 1998
Norethisterone (Norethindrone)	68-22-4	October 1, 1989
Norethynodrel	68-23-5	February 27, 2001
Ochratoxin A	303-47-9	July 1, 1990
Oil Orange SS	2646-17-5	April 1, 1988
Oral contraceptives, combined	—	October 1, 1989

Chemical	*CAS Number*	*Date*
Oral contraceptives, sequential	—	October 1, 1989
Oxadiazon	19666–30–9	July 1, 1991
Oxazepam	604–75–1	October 1, 1994
Oxymetholone	434–07–1	January 1, 1988
Oxythioquinox (Chinomethionat)	2439–01–2	August 20, 1999
Palygorskite fibers (>5μm in length)	12174–11–7	December 28, 1999
Panfuran S	794–93–4	January 1, 1988
Pentachlorophenol	87–86–5	January 1, 1990
Phenacetin	62–44–2	October 1, 1989
Phenazopyridine	94–78–0	January 1, 1988
Phenazopyridine hydrochloride	136–40–3	January 1, 1988
Phenesterin	3546–10–9	July 1, 1989
Phenobarbital	50–06–6	January 1, 1990
Phenolphthalein	77–09–8	May 15, 1998
Phenoxybenzamine	59–96–1	April 1, 1988
Phenoxybenzamine hydrochloride	63–92–3	April 1, 1988
o–Phenylenediamine and its salts	95–54–5	May 15, 1998
Phenyl glycidyl ether	122–60–1	October 1, 1990
Phenylhydrazine and its salts	—	July 1, 1992
o–Phenylphenate, sodium	132–27–4	January 1, 1990
o–Phenylphenol	90–43–7	August 4, 2000
PhiP(2–Amino–1–methyl–6–phenylimidazol [4,5–b]pyridine)	105650–23–5	October 1, 1994
Polybrominated biphenyls	—	January 1, 1988
Polychlorinated biphenyls	—	October 1, 1989
Polychlorinated biphenyls (containing 60 or more percent chlorine by molecular weight)	—	January 1, 1988
Polychlorinated dibenzo–p–dioxins	—	October 1, 1992
Polychlorinated dibenzofurans	—	October 1, 1992
Polygeenan	53973–98–1	January 1, 1988
Ponceau MX	3761–53–3	April 1, 1988
Ponceau 3R	3564–09–8	April 1, 1988
Potassium bromate	7758–01–2	January 1, 1990
Primidone	125–33–7	August 20, 1999
Procarbazine	671–16–9	January 1, 1988
Procarbazine hydrochloride	366–70–1	January 1, 1988
Procymidone	32809–16–8	October 1, 1994
Progesterone	57–83–0	January 1, 1988
Pronamide	23950–58–5	May 1, 1996
Propachlor	1918–16–7	February 27, 2001
1,3–Propane sultone	1120–71–4	January 1, 1988
Propargite	2312–35–8	October 1, 1994
beta–Propiolactone	57–57–8	January 1, 1988
Propoxur	114–26–1	August 11, 2006
Propylene glycol mono–*t*–butyl ether	57018–52–7	June 11, 2004
Propylene oxide	75–56–9	October 1, 1988
Propylthiouracil	51–52–5	January 1, 1988
Pyridine	110–86–1	May 17, 2002
Quinoline and its strong acid salts	—	October 24, 1997
Radionuclides	—	July 1, 1989
Reserpine	50–55–5	October 1, 1989
Residual (heavy) fuel oils	—	October 1, 1990
Riddelliine	23246–96–0	December 3, 2004
Safrole	94–59–7	January 1, 1988
Selenium sulfide	7446–34–6	October 1, 1989
Shale–oils	68308–34–9	April 1, 1990
Silica, crystalline (airborne particles of respirable size)	—	October 1, 1988
Soots, tars, and mineral oils (untreated and mildly treated oils and used engine oils)	—	February 27, 1987
Spironolactone	52–01–7	May 1, 1997
Stanozolol	10418–03–8	May 1, 1997
Sterigmatocystin	10048–13–2	April 1, 1988
Streptozotocin (streptozocin)	18883–66–4	January 1, 1988
Strong inorganic acid mists containing sulfuric acid	—	March 14, 2003
Styrene oxide	96–09–3	October 1, 1988
Sulfallate	95–06–7	January 1, 1988
Sulfasalazine (Salicylazosulfapyridine)	599–79–1	May 15, 1998
Talc containing asbestiform fibers	—	April 1, 1990
Tamoxifen and its salts	10540–29–1	September 1, 1996
Terrazole	2593–15–9	October 1, 1994
Testosterone and its esters	58–22–0	April 1, 1988
2,3,7,8–Tetrachlorodibenzo–para–dioxin (TCDD)	1746–01–6	January 1, 1988
1,1,2,2–Tetrachloroethane	79–34–5	July 1, 1990
Tetrachloroethylene (Perchloroethylene)	127–18–4	April 1, 1988
p–α,α,α–Tetrachlorotoluene	5216–25–1	January 1, 1990
Tetrafluoroethylene	116–14–3	May 1, 1997
Tetranitromethane	509–14–8	July 1, 1990
Thioacetamide	62–55–5	January 1, 1988
4,4′–Thiodianiline	139–65–1	April 1, 1988

Chemical	*CAS Number*	*Date*
Thiodicarb	59669-26-0	August 20, 1999
Thiouracil	141-90-2	June 11, 2004
Thiourea	62-56-6	January 1, 1988
Thorium dioxide	1314-20-1	February 27, 1987
Tobacco, oral use of smokeless products	—	April 1, 1988
Tobacco smoke	—	April 1, 1988
Toluene diisocyanate	26471-62-5	October 1, 1989
ortho-Toluidine	95-53-4	January 1, 1988
ortho-Toluidine hydrochloride	636-21-5	January 1, 1988
Toxaphene (Polychorinated camphenes)	8001-35-2	January 1, 1988
Treosulfan	299-75-2	February 27, 1987
Trichlormethine (Trimustine hydrochloride)	817-09-4	January 1, 1992
Trichloroethylene	79-01-6	April 1, 1988
2,4,6-Trichlorophenol	88-06-2	January 1, 1988
1,2,3-Trichloropropane	96-18-4	October 1, 1992
Trimethyl phosphate	512-56-1	May 1, 1996
2,4,5-Trimethylaniline and its strong acid salts	—	October 24, 1997
Triphenyltin hydroxide	76-87-9	July 1, 1992
Tris(1-aziridinyl)phosphine sulfide (Thiotepa)	52-24-4	January 1, 1988
Tris(2-chloroethyl)phosphate	115-96-8	April 1, 1992
Tris(2,3-dibromopropyl)phosphate	126-72-7	January 1, 1988
Trp-P-1 (Tryptophan-P-1)	62450-06-0	April 1, 1988
Trp-P-2 (Tryptophan-P-2)	62450-07-1	April 1, 1988
Trypan blue (commercial grade)	72-57-1	October 1, 1989
Unleaded gasoline (wholly vaporized)	—	April 1, 1988
Uracil mustard	66-75-1	April 1, 1988
Urethane (Ethyl carbamate)	51-79-6	January 1, 1988
Vanadium pentoxide (orthorhombic crystalline form)	1314-62-1	February 11, 2005
Vinclozolin	50471-44-8	August 20, 1999
Vinyl bromide	593-60-2	October 1, 1988
Vinyl chloride	75-01-4	February 27, 1987
4-Vinylcyclohexene	100-40-3	May 1, 1996
4-Vinyl-1-cyclohexene diepoxide (Vinyl cyclohexene dioxide)	106-87-6	July 1, 1990
Vinyl fluoride	75-02-5	May 1, 1997
Vinyl trichloride (1,1,2-Trichloroethane)	79-00-5	October 1, 1990
2,6-Xylidine (2,6-Dimethylaniline)	87-62-7	January 1, 1991
Zileuton	111406-87-2	December 22, 2000

(c) Chemicals known to the state to cause reproductive toxicity.

Chemical	*Type of Reproductive Toxicity*	*CAS Number*	*Date*
Acetazolamide	developmental	59-66-5	August 20, 1999
Acetohydroxamic acid	developmental	546-88-3	April 1, 1990
Actinomycin D	developmental	50-76-0	October 1, 1992
All-trans retinoic acid	developmental	302-79-4	January 1, 1989
Alprazolam	developmental	28981-97-7	July 1, 1990
Altretamine	developmental, male	645-05-6	August 20, 1999
Amantadine hydrochloride	developmental	665-66-7	February 27, 2001
Amikacin sulfate	developmental	39831-55-5	July 1, 1990
Aminoglutethimide	developmental	125-84-8	July 1, 1990
Aminoglycosides	developmental	—	October 1, 1992
Aminopterin	developmental, female	54-62-6	July 1, 1987
Amiodarone hydrochloride	developmental, female, male	19774-82-4	August 26, 1997
Amitraz	developmental	33089-61-1	March 30, 1999
Amoxapine	developmental	14028-44-5	May 15, 1998
Anabolic steroids	female, male	—	April 1, 1990
Angiotensin converting enzyme (ACE) inhibitors	developmental	—	October 1, 1992
Anisindione	developmental	117-37-3	October 1, 1992
Arsenic (inorganic oxides)	developmental	—	May 1, 1997
Aspirin (NOTE: It is especially important not to use aspirin during the last three months of pregnancy, unless specifically directed to do so by a physician because it may cause problems in the unborn child or complications during delivery.)	developmental, female	50-78-2	July 1, 1990
Atenolol	developmental	29122-68-7	August 26, 1997
Auranofin	developmental	34031-32-8	January 29, 1999
Azathioprine	developmental	446-86-6	September 1, 1996
Barbiturates	developmental	—	October 1, 1992
Beclomethasone dipropionate	developmental	5534-09-8	May 15, 1998
Benomyl	developmental, male	17804-35-2	July 1, 1991
Benzene	developmental, male	71-43-2	December 26, 1997
Benzodiazepines	developmental	—	October 1, 1992
Benzphetamine hydrochloride	developmental	5411-22-3	April 1, 1990
Bischloroethyl nitrosourea (BCNU) (Carmustine)	developmental	154-93-8	July 1, 1990
Bromacil lithium salt	developmental	53404-19-6	May 18, 1999
	male		January 17, 2003
1-Bromopropane (1-BP)	developmental, female, male	106-94-5	December 7, 2004
2-Bromopropane (2-BP)	female, male	75-26-3	May 31, 2005

Chemical	*Type of Reproductive Toxicity*	*CAS Number*	*Date*
Bromoxynil	developmental	1689-84-5	October 1, 1990
Bromoxynil octanoate	developmental	1689-99-2	May 18, 1999
Butabarbital sodium	developmental	143-81-7	October 1, 1992
1,3-Butadiene	developmental, female, male	106-99-0	April 16, 2004
1,4-Butanediol dimethanesulfonate (Busulfan)	developmental	55-98-1	January 1, 1989
Butyl benzyl phthalate (BBP)	developmental	85-68-7	December 2, 2005
Cadmium	developmental, male	—	May 1, 1997
Carbamazepine	developmental	298-46-4	January 29, 1999
Carbon disulfide	developmental, female, male	75-15-0	July 1, 1989
Carbon monoxide	developmental	630-08-0	July 1, 1989
Carboplatin	developmental	41575-94-4	July 1, 1990
Chenodiol	developmental	474-25-9	April 1, 1990
Chlorambucil	developmental	305-03-3	January 1, 1989
Chlorcyclizine hydrochloride	developmental	1620-21-9	July 1, 1987
Chlordecone (Kepone)	developmental	143-50-0	January 1, 1989
Chlordiazepoxide	developmental	58-25-3	January 1, 1992
Chlordiazepoxide hydrochloride	developmental	438-41-5	January 1, 1992
1-(2-Chloroethyl)-3-cyclohexyl-1-nitrosourea (CCNU) (Lomustine)	developmental	13010-47-4	July 1, 1990
Chlorsulfuron	developmental, female, male	64902-72-3	May 14, 1999
Cidofovir	developmental, female, male	113852-37-2	January 29, 1999
Cladribine	developmental	4291-63-8	September 1, 1996
Clarithromycin	developmental	81103-11-9	May 1, 1997
Clobetasol propionate	developmental, female	25122-46-7	May 15, 1998
Clomiphene citrate	developmental	50-41-9	April 1, 1990
Clorazepate dipotassium	developmental	57109-90-7	October 1, 1992
Cocaine	developmental, female	50-36-2	July 1, 1989
Codeine phosphate	developmental	52-28-8	May 15, 1998
Colchicine	developmental, male	64-86-8	October 1, 1992
Conjugated estrogens	developmental	—	April 1, 1990
Cyanazine	developmental	21725-46-2	April 1, 1990
Cycloate	developmental	1134-23-2	March 19, 1999
Cycloheximide	developmental	66-81-9	January 1, 1989
Cyclophosphamide (anhydrous)	developmental, female, male	50-18-0	January 1, 1989
Cyclophosphamide (hydrated)	developmental, female, male	6055-19-2	January 1, 1989
Cyhexatin	developmental	13121-70-5	January 1, 1989
Cytarabine	developmental	147-94-4	January 1, 1989
Dacarbazine	developmental	4342-03-4	January 29, 1999
Danazol	developmental	17230-88-5	April 1, 1990
Daunorubicin hydrochloride	developmental	23541-50-6	July 1, 1990
2,4-D butyric acid	male	94-82-6	June 18, 1999
o,p′-DDT	developmental, female, male	789-02-6	May 15, 1998
p,p′-DDT	developmental, female, male	50-29-3	May 15, 1998
Demeclocycline hydrochloride (internal use)	developmental	64-73-3	January 1, 1992
Diazepam	developmental	439-14-5	January 1, 1992
Diazoxide	developmental	364-98-7	February 27, 2001
1,2-Dibromo-3-chloropropane (DBCP)	male	96-12-8	February 27, 1987
Di-*n*-butyl phthalate (DBP)	developmental, female, male	84-74-2	December 2, 2005
Dichlorophene	developmental	97-23-4	April 27, 1999
Dichlorphenamide	developmental	120-97-8	February 27, 2001
Diclofop methyl	developmental	51338-27-3	March 5, 1999
Dicumarol	developmental	66-76-2	October 1, 1992
Di(2-ethylhexyl)phthalate (DEHP)	developmental, male	117-81-7	October 24, 2003
Diethylstilbestrol (DES)	developmental	56-53-1	July 1, 1987
Diflunisal	developmental, female	22494-42-4	January 29, 1999
Di-*n*-hexyl phthalate (DnHP)	female, male	84-75-3	December 2, 2005
Dihydroergotamine mesylate	developmental	6190-39-2	May 1, 1997
Di-isodecyl phthalate (DIDP)	developmental	68515-49-1 & 26761-40-0	April 20, 2007
Diltiazem hydrochloride	developmental	33286-22-5	February 27, 2001
m-Dinitrobenzene	male	99-65-0	July 1, 1990
o-Dinitrobenzene	male	528-29-0	July 1, 1990
p-Dinitrobenzene	male	100-25-4	July 1, 1990
2,4-Dinitrotoluene	male	121-14-2	August 20, 1999
2,6-Dinitrotoluene	male	606-20-2	August 20, 1999
Dinitrotoluene (technical grade)	female, male	—	August 20, 1999
Dinocap	developmental	39300-45-3	April 1, 1990
Dinoseb	developmental, male	88-85-7	January 1, 1989
Diphenylhydantoin (Phenytoin)	developmental	57-41-0	July 1, 1987
Disodium cyanodithioimidocarbonate	developmental	138-93-2	March 30, 1999
Doxorubicin hydrochloride (Adriamycin)	developmental, male	25316-40-9	January 29, 1999
Doxycycline (internal use)	developmental	564-25-0	July 1, 1990
Doxycycline calcium (internal use)	developmental	94088-85-4	January 1, 1992
Doxycycline hyclate (internal use)	developmental	24390-14-5	October 1, 1991
Doxycycline monohydrate (internal use)	developmental	17086-28-1	October 1, 1991
Endrin	developmental	72-20-8	May 15, 1998
Environmental tobacco smoke (ETS)	developmental	—	June 9, 2006
Epichlorohydrin	male	106-89-8	September 1, 1996
Ergotamine tartrate	developmental	379-79-3	April 1, 1990

Chemical	*Type of Reproductive Toxicity*	*CAS Number*	*Date*
Estropipate	developmental	7280–37–7	August 26, 1997
Ethionamide	developmental	536–33–4	August 26, 1997
Ethyl alcohol in alcoholic beverages	developmental	—	October 1, 1987
Ethyl dipropylthiocarbamate	developmental	759–94–4	April 27, 1999
Ethylene dibromide	developmental, male	106–93–4	May 15, 1998
Ethylene glycol monoethyl ether	developmental, male	110–80–5	January 1, 1989
Ethylene glycol monomethyl ether	developmental, male	109–86–4	January 1, 1989
Ethylene glycol monoethyl ether acetate	developmental, male	111–15–9	January 1, 1993
Ethylene glycol monomethyl ether acetate	developmental, male	110–49–6	January 1, 1993
Ethylene oxide	female	75–21–8	February 27, 1987
Ethylene thiourea	developmental	96–45–7	January 1, 1993
Etodolac	developmental, female	41340–25–4	August 20, 1999
Etoposide	developmental	33419–42–0	July 1, 1990
Etretinate	developmental	54350–48–0	July 1, 1987
Fenoxaprop ethyl	developmental	66441–23–4	March 26, 1999
Filgrastim	developmental	121181–53–1	February 27, 2001
Fluazifop butyl	developmental	69806–50–4	November 6, 1998
Flunisolide	developmental, female	3385–03–3	May 15, 1998
Fluorouracil	developmental	51–21–8	January 1, 1989
Fluoxymesterone	developmental	76–43–7	April 1, 1990
Flurazepam hydrochloride	developmental	1172–18–5	October 1, 1992
Flurbiprofen	developmental, female	5104–49–4	August 20, 1999
Flutamide	developmental	13311–84–7	July 1, 1990
Fluticasone propionate	developmental	80474–14–2	May 15, 1998
Fluvalinate	developmental	69409–94–5	November 6, 1998
Ganciclovir sodium	developmental, male	82410–32–0	August 26, 1997
Gemfibrozil	female, male	25812–30–0	August 20, 1999
Goserelin acetate	developmental, female, male	65807–02–5	August 26, 1997
Halazepam	developmental	23092–17–3	July 1, 1990
Halobetasol propionate	developmental	66852–54–8	August 20, 1999
Haloperidol	developmental, female	52–86–8	January 29, 1999
Halothane	developmental	151–67–7	September 1, 1996
Heptachlor	developmental	76–44–8	August 20, 1999
Hexachlorobenzene	developmental	118–74–1	January 1, 1989
Hexamethylphosphoramide	male	680–31–9	October 1, 1994
Histrelin acetate	developmental	—	May 15, 1998
Hydramethylnon	developmental, male	67485–29–4	March 5, 1999
Hydroxyurea	developmental	127–07–1	May 1, 1997
Idarubicin hydrochloride	developmental, male	57852–57–0	August 20, 1999
Ifosfamide	developmental	3778–73–2	July 1, 1990
Iodine–131	developmental	10043–66–0	January 1, 1989
Isotretinoin	developmental	4759–48–2	July 1, 1987
Lead	developmental, female, male	—	February 27, 1987
Leuprolide acetate	developmental, female, male	74381–53–6	August 26, 1997
Levodopa	developmental	59–92–7	January 29, 1999
Levonorgestrel implants	female	797–63–7	May 15, 1998
Linuron	developmental	330–55–2	March 19, 1999
Lithium carbonate	developmental	554–13–2	January 1, 1991
Lithium citrate	developmental	919–16–4	January 1, 1991
Lorazepam	developmental	846–49–1	July 1, 1990
Lovastatin	developmental	75330–75–5	October 1, 1992
Mebendazole	developmental	31431–39–7	August 20, 1999
Medroxyprogesterone acetate	developmental	71–58–9	April 1, 1990
Megestrol acetate	developmental	595–33–5	January 1, 1991
Melphalan	developmental	148–82–3	July 1, 1990
Menotropins	developmental	9002–68–0	April 1, 1990
Meprobamate	developmental	57–53–4	January 1, 1992
Mercaptopurine	developmental	6112–76–1	July 1, 1990
Mercury and mercury compounds	developmental	—	July 1, 1990
Methacycline hydrochloride	developmental	3963–95–9	January 1, 1991
Metham sodium	developmental	137–42–8	May 15, 1998
Methazole	developmental	20354–26–1	December 1, 1999
Methimazole	developmental	60–56–0	July 1, 1990
Methotrexate	developmental	59–05–2	January 1, 1989
Methotrexate sodium	developmental	15475–56–6	April 1, 1990
Methyl bromide as a structural fumigant	developmental	74–83–9	January 1, 1993
Methyl chloride	developmental	74–87–3	March 10, 2000
Methyl mercury	developmental	—	July 1, 1987
N–Methylpyrrolidone	developmental	872–50–4	June 15, 2001
Methyltestosterone	developmental	58–18–4	April 1, 1990
Metiram	developmental	9006–42–2	March 30, 1999
Midazolam hydrochloride	developmental	59467–96–8	July 1, 1990
Minocycline hydrochloride (internal use)	developmental	13614–98–7	January 1, 1992
Misoprostol	developmental	59122–46–2	April 1, 1990
Mitoxantrone hydrochloride	developmental	70476–82–3	July 1, 1990
Myclobutanil	developmental, male	88671–89–0	April 16, 1999

Chemical	*Type of Reproductive Toxicity*	*CAS Number*	*Date*
Nabam	developmental	142-59-6	March 30, 1999
Nafarelin acetate	developmental	86220-42-0	April 1, 1990
Neomycin sulfate (internal use)	developmental	1405-10-3	October 1, 1992
Netilmicin sulfate	developmental	56391-57-2	July 1, 1990
Nickel carbonyl	developmental	13463-39-3	September 1, 1996
Nicotine	developmental	54-11-5	April 1, 1990
Nifedipine	developmental, female, male	21829-25-4	January 29, 1999
Nimodipine	developmental	66085-59-4	April 24, 2001
Nitrapyrin	developmental	1929-82-4	March 30, 1999
Nitrofurantoin	male	67-20-9	April 1, 1991
Nitrogen mustard (Mechlorethamine)	developmental	51-75-2	January 1, 1989
Nitrogen mustard hydrochloride (Mechlorethamine hydrochloride)	developmental	55-86-7	July 1, 1990
Norethisterone (Norethindrone)	developmental	68-22-4	April 1, 1990
Norethisterone acetate (Norethindrone acetate)	developmental	51-98-9	October 1, 1991
Norethisterone (Norethindrone)/Ethinyl estradiol	developmental	68-22-4/57-63-6	April 1, 1990
Norethisterone (Norethindrone)/Mestranol	developmental	68-22-4/72-33-3	April 1, 1990
Norgestrel	developmental	6533-00-2	April 1, 1990
Oxadiazon	developmental	19666-30-9	May 15, 1998
Oxazepam	developmental	604-75-1	October 1, 1992
Oxydemeton methyl	female, male	301-12-2	November 6, 1998
Oxymetholone	developmental	434-07-1	May 1, 1997
Oxytetracycline (internal use)	developmental	79-57-2	January 1, 1991
Oxytetracycline hydrochloride (internal use)	developmental	2058-46-0	October 1, 1991
Oxythioquinox (Chinomethionat)	developmental	2439-01-2	November 6, 1998
Paclitaxel	developmental, female, male	33069-62-4	August 26, 1997
Paramethadione	developmental	115-67-3	July 1, 1990
Penicillamine	developmental	52-67-5	January 1, 1991
Pentobarbital sodium	developmental	57-33-0	July 1, 1990
Pentostatin	developmental	53910-25-1	September 1, 1996
Phenacemide	developmental	63-98-9	July 1, 1990
Phenprocoumon	developmental	435-97-2	October 1, 1992
Pimozide	developmental, female	2062-78-4	August 20, 1999
Pipobroman	developmental	54-91-1	July 1, 1990
Plicamycin	developmental	18378-89-7	April 1, 1990
Polybrominated biphenyls	developmental	—	October 1, 1994
Polychlorinated biphenyls	developmental	—	January 1, 1991
Potassium dimethyldithiocarbamate	developmental	128-03-0	March 30, 1999
Pravastatin sodium	developmental	81131-70-6	March 3, 2000
Prednisolone sodium phosphate	developmental	125-02-0	August 20, 1999
Procarbazine hydrochloride	developmental	366-70-1	July 1, 1990
Propargite	developmental	2312-35-8	June 15, 1999
Propylthiouracil	developmental	51-52-5	July 1, 1990
Pyrimethamine	developmental	58-14-0	January 29, 1999
Quazepam	developmental	36735-22-5	August 26, 1997
Quizalofop-ethyl	male	76578-14-8	December 24, 1999
Resmethrin	developmental	10453-86-8	November 6, 1998
Retinol/retinyl esters, when in daily dosages in excess of 10,000 IU, or 3,000 retinol equivalents. (NOTE: Retinol/retinyl esters are required and essential for maintenance of normal reproductive function. The recommended daily level during pregnancy is 8,000 IU.)	developmental	—	July 1, 1989
Ribavirin	developmental	36791-04-5	April 1, 1990
	male	36791-04-5	February 27, 2001
Rifampin	developmental, female	13292-46-1	February 27, 2001
Secobarbital sodium	developmental	309-43-3	October 1, 1992
Sermorelin acetate	developmental	—	August 20, 1999
Sodium dimethyldithiocarbamate	developmental	128-04-1	March 30, 1999
Sodium fluoroacetate	male	62-74-8	November 6, 1998
Streptomycin sulfate	developmental	3810-74-0	January 1, 1991
Streptozocin (streptozotocin)	developmental, female, male	18883-66-4	August 20, 1999
Sulfasalazine (Salicylazosulfapyridine)	male	599-79-1	January 29, 1999
Sulindac	developmental, female	38194-50-2	January 29, 1999
Tamoxifen citrate	developmental	54965-24-1	July 1, 1990
Temazepam	developmental	846-50-4	April 1, 1990
Teniposide	developmental	29767-20-2	September 1, 1996
Terbacil	developmental	5902-51-2	May 18, 1999
Testosterone cypionate	developmental	58-20-8	October 1, 1991
Testosterone enanthate	developmental	315-37-7	April 1, 1990
2,3,7,8-Tetrachlorodibenzo-para-dioxin (TCDD)	developmental	1746-01-6	April 1, 1991
Tetracycline (internal use)	developmental	60-54-8	October 1, 1991
Tetracyclines (internal use)	developmental	—	October 1, 1992
Tetracycline hydrochloride (internal use)	developmental	64-75-5	January 1, 1991

Chemical	*Type of Reproductive Toxicity*	*CAS Number*	*Date*
Thalidomide	developmental	50-35-1	July 1, 1987
Thioguanine	developmental	154-42-7	July 1, 1990
Thiophanate methyl	female, male	23564-05-8	May 18, 1999
Tobacco smoke (primary)	developmental, female, male	—	April 1, 1988
Tobramycin sulfate	developmental	49842-07-1	July 1, 1990
Toluene	developmental	108-88-3	January 1, 1991
Triadimefon	developmental, female, male	43121-43-3	March 30, 1999
Triazolam	developmental	28911-01-5	April 1, 1990
Tributyltin methacrylate	developmental	2155-70-6	December 1, 1999
Trientine hydrochloride	developmental	38260-01-4	February 27, 2001
Triforine	developmental	26644-46-2	June 18, 1999
Trilostane	developmental	13647-35-3	April 1, 1990
Trimethadione	developmental	127-48-0	January 1, 1991
Trimetrexate glucuronate	developmental	82952-64-5	August 26, 1997
Triphenyltin hydroxide	developmental	76-87-9	March 15, 2002
Uracil mustard	developmental, female, male	66-75-1	January 1, 1992
Urethane	developmental	51-79-6	October 1, 1994
Urofollitropin	developmental	97048-13-0	April 1, 1990
Valproate (Valproic acid)	developmental	99-66-1	July 1, 1987
Vinblastine sulfate	developmental	143-67-9	July 1, 1990
Vinclozolin	developmental	50471-44-8	May 15, 1998
Vincristine sulfate	developmental	2068-78-2	July 1, 1990
Warfarin	developmental	81-81-2	July 1, 1987
Zileuton	developmental, female	111406-87-2	December 22, 2000

Date: September 28, 2007

NOTE: Authority cited: Section 25249.8, Health and Safety Code. Reference: Section 25249.8, Health and Safety Code.

HISTORY

1. New chapter 3 (section 12000) submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 88, No. 4).
2. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 88, No. 17).
3. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 88, No. 30).
4. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 88, No. 45).
5. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 89, No. 4).
6. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 89, No. 16).
7. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 89, No. 29).
8. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 89, No. 41).
9. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 90, No. 2).
10. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 90, No. 28).
11. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 90, No. 35).
12. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 90, No. 45).
13. Editorial correction of printer error inadvertently omitting several chemicals (Register 90, No. 45).
14. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 15).
15. Editorial correction of errors in chemical name, CAS number, and spelling (Register 91, No. 15).
16. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 17).
17. Editorial correction of printing errors (Register 91, No. 43).
18. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 92, No. 6).
19. Editorial correction of printing errors (Register 92, No. 29).
20. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 92, No. 43).
21. Editorial correction instituting inadvertently omitted amendment. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 93, No. 20).
22. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 93, No. 45).
23. Editorial correction of printing errors (Register 93, No. 45).
24. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 94, No. 46).
25. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 95, No. 52).
26. Editorial correction of printing errors (Register 96, No. 23).
27. Amendment filed 6-5-96; operative 4-23-96. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 96, No. 23).
28. Amendment of subsections (b), (c)(1) and (c)(3) filed 9-30-96; operative 9-30-96. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 96, No. 40).
29. Editorial correction of printing errors (Register 96, No. 40).
30. Amendment of subsection (c)(1) filed 10-16-96; operative 9-3-96. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 96, No. 42).
31. Amendment of subsections (b), (c)(1) and (c)(3) filed 6-3-97; operative 6-3-97 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 97, No. 23).
32. Editorial correction of spacing and alphabetical placements (Register 97, No. 39).
33. Amendment filed 9-24-97; operative 9-24-97. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 97, No. 39).
34. Amendment filed 2-3-98; operative 1-9-98. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 98, No. 6).
35. Amendment filed 6-24-98; operative 6-24-98. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 98, No. 26).
36. Amendment filed 11-9-98; operative 11-9-98 pursuant to Government Code 11343.4(d). Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 98, No. 46).
37. Amendment of subsections (b) and (c)(1)-(c)(3) filed 3-15-99; operative 3-15-99. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 99, No. 12).
38. Amendment of subsections (b) and (c)(1)-(c)(3) filed 5-3-99; operative 5-3-99. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 99, No. 19).
39. Amendment of subsections (c)(1) and (c)(3) filed 5-28-99; operative 5-28-99. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 99, No. 22).
40. Amendment of subsections (b) and (c)(1)-(3) filed 8-10-99; operative 6-18-99. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 99, No. 33).
41. Amendment of subsections (b) and (c)(1)-(3) filed 11-10-99; operative 8-20-99. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 99, No. 46).
42. Amendment of subsections (b) and (c)(1)-(3) filed 2-2-2000; operative 10-29-99. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8. On January 1, 1990, allyl chloride, chlorodibromomethane, para-Toluidine, and zineb were all added to the list of chemicals known to the state to cause cancer. Effective October 29, 1999, those same chemicals were removed from the list of chemicals known to the state to cause cancer (Register 2000, No. 5).

43. Amendment of subsection (c)(1) filed 4–12–2000; operative 3–10–2000. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 2000, No. 15).
44. Amendment of subsection (b) filed 9–12–2000; operative 8–4–2000. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 2000, No. 37).
45. Amendment of subsections (b) and (c)(1)–(3) and new NOTE filed 4–10–2001; operative 2–27–2001. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 2001, No. 15).
46. Amendment of subsections (b) and (c)(1) filed 6–11–2001; operative 4–24–2001. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 2001, No. 24).
47. Amendment of subsection (c)(1) filed 10–24–01; operative 6–22–01. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8. On June 18, 1999, 2,4–D butyric acid was added to the list of chemicals known to the State to cause developmental and male reproductive toxicity. Effective June 22, 2001, the listing of the same chemical with the endpoint of developmental toxicity was removed and the chemical was listed only as known to the State to cause male reproductive toxicity (Register 2001, No. 43).
48. Amendment of subsection (b) and redesignation and amendment of former subsections (c)(1)–(3) as subsection (c) filed 2–28–2002; operative 12–21–2001. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 2002, No. 9).
49. Amendment of subsections (b) and (c) filed 4–16–2002; operative 1–25–2002. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 2002, No. 16).
50. Amendment of subsections (b) and (c) filed 2–6–2003; operative 6–28–2002. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 2003, No. 6).
51. Amendment of subsections (b) and (c) filed 8–7–2003; operative 6–6–2003. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 2003, No. 32).
52. Amendment of subsections (b) and (c) filed 4–12–2004; operative 11–14–2003. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 2004, No. 16).
53. Amendment of subsections (b) and (c) filed 12–27–2004; operative 7–9–2004. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 2004, No. 53).
54. Amendment of subsections (b) and (c) filed 1–17–2006. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 2006, No. 3).
55. Amendment of subsections (b) and (c) filed 1–29–2007; operative 12–8–2006. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 2007, No. 5).
56. Amendment of subsections (b) and (c) filed 3–18–2008; operative 9–28–2007. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 2008, No. 12).
57. Change without regulatory effect renumbering title 22, section 12000 to title 27, section 27001 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

Chapter 2. Hazardous Substance Cleanup Arbitration Panel Hearing Regulations

Article 1. General Provisions

§ 28000. Introduction.

These regulations govern proceedings of the Hazardous Substance Cleanup Arbitration Panel. If any provision of this chapter or the application of any provision of this chapter to any person or circumstances, is held invalid, the application of such provision to other persons or circumstances and the remainder of this chapter shall not be affected thereby.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New chapter 4, article 1 (sections 15000–15006) and section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 96, No. 10).
3. New chapter 4, article 1 (sections 15000–15006) and section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
4. New chapter 4 (articles 1–7, sections 15000–15040), article 1 (sections 15000–15006) and section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
5. New chapter 4, (article 1–7, sections 15000–15040), article 1 (sections 15000–15006) and section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
7. Change without regulatory effect renumbering title 22, division 2, subdivision 1, chapter 4 (articles 1–7, sections 15000–15040), article 1 (sections 15000–15006) to title 27, division 4, chapter 2 (articles 1–7, sections 28000–28040), article 1 (sections 28000–28006) and renumbering title 22, section 15000 to title 27, section 28000 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28001. Definitions.

Unless otherwise defined in the Health and Safety Code, the following definitions apply to this chapter:

(a) "Agency" means the California Environmental Protection Agency.

(b) "Arbitration" means any proceeding arbitrating issues pursuant to sections 25356.3 and 25398.10(a) of the Health and Safety Code.

(c) "Arbitration panel" means the three arbitrators selected for an individual site pursuant to Health and Safety Code section 25356.2

(d) "Arbitrator" means an individual selected pursuant to Health and Safety Code section 25356.2.

(e) "Days" means calendar days.

(f) "Department" means the Department of Toxic Substances Control.

(g) "Director" means the Director of the Office of Environmental Health Hazard Assessment, or the Director's designee.

(h) "Ex parte communication" means any communication, written or oral, relating to the merits of the arbitration, between the arbitration panel and any interested person, which was not originally filed or stated in the administrative record of the arbitration. Such communication is not an ex parte communication if all parties to the arbitration have received prior written notice of the proposed communication and have been given the opportunity to be present and to participate therein.

(i) "Interested person" means the Director, Department, Water Board, any party to the arbitration, any potentially responsible party associated with the site concerned, any person who filed written comments in the arbitration, any participant or intervenor in the arbitration, all officers, directors, employees, consultants, and agents of any party, and any attorney of record for any of the foregoing persons.

(j) "Participating Potentially Responsible Party" means a responsible party who has agreed to submit to binding arbitration by the arbitration panel.

(k) "Party" means any party to an arbitration, including the participating potentially responsible parties, the Department, the Water Board, and the affected community and public.

(*l*) "Remedial Action Plan" and "Final Remedial Action Plan" means a plan prepared pursuant to Health and Safety Code sections 25356.1 or 25398.4, where applicable.

(m) "Responsible Person" has the same meaning as set forth in Health and Safety Code section 25323.5 for "responsible party" or "liable person."

(n) "Secretary" means the Secretary for Environmental Protection, or the Secretary's designee.

(o) "Water Board" means the State Water Resources Control Board or Regional Water Quality Control Board with jurisdiction over a hazardous substance release site.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96

or emergency language will be repealed by operation of law on the following day.

3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15001 to title 27, section 28001 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28002. Interpretation and Application of Regulations.

The arbitrators shall interpret and apply the provisions of these regulations. Such interpretation and application shall be decided by majority vote of each selected arbitration panel. In addition to the authority expressly granted by law or these regulations, the arbitrators shall have the power to issue such orders as necessary to implement these regulations.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15002 to title 27, section 28002 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28003. Ex Parte Communication.

(a) No interested person shall make or knowingly cause to be made to the arbitration panel an ex parte communication.

(b) The arbitration panel shall not make or knowingly cause to be made to any interested person an ex parte communication.

(c) The Director may remove an arbitrator in any proceeding in which it is demonstrated to the Director's satisfaction that an arbitrator has engaged in prohibited ex parte communication to the prejudice of any party. If the arbitrator is removed, the procedures in section 28016 shall apply.

(d) Whenever an ex parte communication in violation of this section is received by or made known to the arbitration panel or the Director, the arbitration panel or Director shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the arbitration panel or Director received an ex parte communication, and shall advise all parties that these matters have been placed on the record. Any person desiring to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) days after notice of the communication.

(e) The prohibitions of this section apply upon appointment of the arbitrator and terminate on the date of the final decision.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15003 to title 27, section 28003, including amendment of subsection (c), filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28004. Representation.

(a) In proceedings under these regulations, a party may appear in person, a corporate party by an officer or employee thereof, a partnership or joint venture party by an authorized member or employee thereof, or any party may be represented by counsel. A party who intends to be so represented shall notify the other parties and the arbitration panel of the name, address and telephone number of counsel at least three days prior to the date set for the hearing. When an attorney has initiated the arbitration on behalf of a party, or when an attorney has filed a pleading on behalf of a party, notice is deemed to have been given.

(b) Parties shall notify the arbitrators, the Director and each other of any change in the name, address or telephone number of any representative.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15004 to title 27, section 28004 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28005. Service and Filing.

(a) All required or permitted documents shall be filed with the Director together with proof of service on all other parties and on the arbitrators, unless filing prior to service is authorized for good cause by the Director or arbitration panel.

(b) Except for subpoenas, which shall be served in the manner provided in Code of Civil Procedure sections 1987 and 1988, service of documents among parties shall be made as provided in Code of Civil Procedure section 1013. A form of mailing providing for proof of the date of delivery, or a method provided for service of a summons in a civil action, shall be used for delivery of both the draft and final arbitration decisions.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15005 to title 27, section 28005 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28006. Waiver.

Any party who knows that any provision of these regulations has not been complied with shall state objections thereto in writing within thirty (30) days of acquiring knowledge of the noncompliance, or be deemed to have waived the objection.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15006 to title 27, section 28006 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

Article 2. Office of Environmental Health Hazard Assessment

§ 28007. Exercise of Administrative Authority.

(a) The Director shall provide administrative services for arbitrations under these regulations. The costs for these services will be based on a reasonable percentage of the total costs of an arbitration. The Director shall determine the percentage rate based upon, but not limited to, the following considerations: The complexity of the arbitration, the estimated length of the arbitration, projected expenses to be incurred during the course of the arbitration process, and current agency administrative overhead costs. Administrative services shall not include the services of reporters or transcribers.

(b) The Director shall be the repository of official records of any proceeding under these regulations until expiration of the appeal period, and may thereafter dispose of any such record after reasonable notice to the parties and subject to Government Code section 14755.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10, 25396(t), 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New article 2 (sections 15007–15011) and section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 96, No. 10).
3. New article 2 (sections 15007–15011) and section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
4. New article 2 (sections 15007–15011) and section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
5. New article 2 (sections 15007–15011) and section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10–31–96 order, including amendment of subsection (a), transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
7. Change without regulatory effect renumbering title 22, division 2, subdivision 1, chapter 4, article 2 (sections 15007–15011) to title 27, division 4, chapter 2, article 2 (sections 28007–28011) and renumbering title 22, section 15007 to title 27, section 28007 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28008. Payment of Arbitration Costs.

(a) The Director may order the potentially responsible parties, at any time, to make deposits necessary to assure payment of the costs of arbitrations. The Director may order the arbitration panel to withhold the draft or final arbitration decision or find parties in default to assure payment of arbitration costs. Even if the Director has not issued such an order, the arbitration panel shall not issue their draft or final decision until it has requested and received certification from the Director that all payments due from the potentially responsible parties have been made, or otherwise has obtained the consent of the Director irrespective of parties being in default of payment. The arbitration panel shall not waive any requirement that participating potentially responsible parties pay the costs of arbitration. However, one or more potentially responsible parties may pay the costs assigned to another responsible party.

(b) For arbitration panels convened pursuant to Health and Safety Code section 25398.10, response costs, which include the cost of arbitration, shall be apportioned among all responsible persons notified of the arbitration proceedings, regardless of whether those persons appear before the arbitration panel.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10, 25396(t), 25398.10–25398.13 and 25399.1(b), Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order, including amendment of section, transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15008 to title 27, section 28008 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28009. Docketing.

Upon a determination to convene the panel pursuant to section 28037, the Director shall docket the arbitration and notify all parties, including potentially responsible parties identified in the petition, of the docketing, convening of an arbitration panel and provide a list of potential arbitra-

tors and a list of the names and addresses of all potentially responsible parties identified in the petition.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15009 to title 27, section 28009, including amendment of section, filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28010. Setting and Notice of Hearings.

The arbitration panels shall set the date and time for all hearings conducted under these regulations and shall require service of written notice thereof on all parties no later than thirty (30) days prior to the date of the hearing.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15010 to title 27, section 28010 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28011. Absence of an Appointed Arbitrator.

Prior to selection of the arbitrators or in the absence of the appointed arbitrators, with consent of all of the parties, the Director may decide necessary procedural and discovery questions.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order, including amendment of section, transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15011 to title 27, section 28011 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

Article 3. Selection of Arbitrators

§ 28012. Appointment of Arbitrators.

Any arbitrator appointed pursuant to section 28013 must have applied and been approved by the Office of Environmental Health Hazard Assessment based upon the criteria in Health and Safety Code sections 25356.2 or 25398.10, as applicable. Any arbitrator appointed shall be neutral, shall decide impartially and shall be subject to removal or disqualification for the reasons specified in section 28015.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New article 3 (sections 15012–15016) and section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 96, No. 10).
3. New article 3 (sections 15012–15016) and section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
4. New article 3 (sections 15012–15016) and section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
5. New article 3 (sections 15012–15016) and section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10–31–96 order, including amendment of section, transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
7. Change without regulatory effect renumbering title 22, division 2, subdivision 1, chapter 4, article 3 (sections 15012–15016) to title 27, division 4, chapter 2, article 3 (sections 28012–28016) and renumbering title 22, section 15012 to title 27, section 28012, including amendment of section, filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28013. Selection of Arbitrators.

(a) The Department or Water Board, whichever is the lead agency for the site, shall select one (1) arbitrator within fifteen (15) days after notice has been sent pursuant to section 28009.

(b) The participating potentially responsible party or a majority of the participating potentially responsible parties who have submitted to arbitration by the panel shall select one (1) arbitrator within fifteen (15) days after notice has been sent pursuant to section 28009.

(c) If the parties do not comply with (a) or (b) above, the Director will select the necessary arbitrator or arbitrators at random from those who have indicated a willingness to serve in the location of the hearing.

(d) If the two (2) arbitrators selected pursuant to (a), (b) or (c) above do not agree upon a third arbitrator within fifteen (15) days after their own selection, the third arbitrator shall be selected according to the following procedure:

(1) The Director shall prepare a list of five (5) potential arbitrators selected at random from those who have indicated a willingness to serve as an arbitrator in the hearing location.

(2) Within ten (10) days from the mailing of the list, the two (2) arbitrators may each:

A. Object to not more than two (2) names by crossing such names off the list;

B. Number the remaining names in the order of preference; and,

C. Return the list to the Director with a copy to the other arbitrator.

(3) All persons named on such list shall be deemed equally acceptable if either of the two (2) arbitrators fail to:

A. Return the list within the specified time; or

B. Indicate an order of preference.

(4) The Director shall appoint the third arbitrator from the persons whose names remain on the list in accordance with the designated order of preference, if possible.

(e) The selection of arbitrators shall be based upon the statutory criteria pursuant to Health and Safety Code sections 25356.2 or 25398.10, as applicable.

(1) For arbitrators selected pursuant Health and Safety Code section 25356.2, this criteria includes, but is not limited to, that arbitrators shall have relevant arbitration experience, and arbitrators shall have expertise in engineering, expertise in the physical, biological, or health sciences, or other relevant experience and qualifications.

(2) For arbitrators selected pursuant to Health and Safety Code section 25398.10, selection criteria includes, but is not limited to, the criteria specified in section 25356.2. In addition, the arbitrators shall have the expertise and experience appropriate to understand and critically evaluate the issues to be arbitrated.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order, including new subsections (e)–(e)(2), transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15013 to title 27, section 28013, including amendment of subsections (a)–(b), filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28014. Notice to Arbitrators of Appointment.

The Director shall mail a notice of appointment, with a copy of these regulations and an oath of office, to the arbitrators.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15014 to title 27, section 28014 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28015. Disclosure and Challenge Procedure.

(a) On notice of selection, the appointed arbitrators shall disclose to the Director and the parties any circumstances known to him or her which are likely to prevent a prompt hearing and decision, or to create a bias or conflict of interest, or to prevent him or her from providing adequate performance. Upon receipt of such information from an appointed arbitrator or other source, the Director shall, within two (2) days of receipt, communicate such information to the parties. Such communication may be made orally or in writing, but if made orally, shall be confirmed in writing.

(b) If any party wishes to request disqualification of an arbitrator, such party shall notify the Director and the other parties of such request and the basis therefor within ten (10) days of receipt of the information on which such request is based. However, any challenge filed pursuant to Health and Safety Code section 25398.12 must be filed within ten (10) days of the provision of public notice of the arbitration hearing pursuant to paragraph (1) of subdivision (b) of section 25398.11 of the Health and Safety Code.

(c) The Director shall make a determination on any request for disqualification of an arbitrator within twenty (20) days after the Director receives any such request, and shall notify the parties in writing of such determination. This determination shall be within the sole discretion of the Director, and the decision shall be final.

(d) Once accepted, arbitrators have a continuing duty to disclose to the Director and the parties the development of any circumstances listed in (a) above, and every such disclosure shall be dealt with as in (a).

(e) If the Director determines that an arbitrator has failed to comply with subsections (a) or (d) above, the arbitrator may be removed from the panel by section 28016.

(f) Any person may challenge the selection of any arbitrator on ground of conflict of interest or lack of one or more of the qualifications required by Health and Safety Code sections 25356.2 or 25398.10, where applicable.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order, including amendment of subsections (a) and (b), transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15015 to title 27, section 28015, including amendment of subsection (e), filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28016. Vacancy.

(a) If any arbitrator selected by a party dies, refuses, or is unable to perform his or her duties adequately or is disqualified or removed during the course of a proceeding, the party who selected him or her shall choose a replacement within fifteen (15) days. If a replacement has not bee chosen within the specified time, the Director will select a replacement at random from the arbitrators who have indicated a willingness to serve in the location of the hearing.

(b) If any third arbitrator dies, refuses, or is unable to perform his or her duties adequately or is disqualified or removed during the course of a proceeding, the remaining arbitrators shall select a replacement arbitrator within fifteen (15) days. If a replacement arbitrator has not been selected within the specified time, the Director will select a replacement at random from the arbitrators who have indicated a willingness to serve in the hearing location.

(c) If a vacancy as described in (a) or (b) above occurs, the merits of the matter shall be reheard unless otherwise agreed to by the parties. The time periods specified herein shall commence to run on the day the arbitrator dies, refuses, or becomes unable to perform the duties of arbitrator adequately or is disqualified or removed during the course of the proceeding.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order, including amendment of section, transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15016 to title 27, section 28016 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

Article 4. Authority of Arbitrators

§ 28017. Arbitrators to Preside.

The three (3) arbitrators on each selected panel shall, by majority vote, elect one of its members to preside at the hearing.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New article 4 (sections 15017–15019) and section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 96, No. 10).
3. New article 4 (sections 15017–15019) and section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
4. New article 4 (sections 15017–15019) and section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
5. New article 4 (sections 15017–15019) and section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
7. Change without regulatory effect renumbering title 22, division 2, subdivision 1, chapter 4, article 4 (sections 15017–15019) to title 27, division 4, chapter 2, article 4 (sections 28017–28019) and renumbering title 22, section 15017 to title 27, section 28017 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28018. Jurisdiction.

The arbitrators shall have the powers and authority conferred by Health and Safety Code sections 25356.2 through 25356.10, and 25398.10 through 25398.13, where applicable. The arbitrators shall rule on the admission and exclusion of evidence, on questions of hearing procedures, and on all other motions and shall exercise all powers relating to the conduct of the hearing. The arbitrators may make orders necessary to promote the prompt and orderly conduct of the hearing, including any orders necessary for in camera consideration of evidence for reasons of business confidentiality as defined and as consistent with Health and Safety Code section 25358.2.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10, 25358.2 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15018 to title 27, section 28018 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28019. Arguments, Briefs and Proposed Findings.

(a) The arbitrators may require the parties before, during or following a hearing to submit arguments or briefs, in addition to any opening and closing briefs, on some or all of the issues in dispute.

(b) As a part of or in lieu of argument or briefs, the arbitrators, prior to taking the issues under submission for decision, may require the parties to submit proposed findings of fact and conclusions of law on some or all of the issues. When a proposed finding of fact is thus required to be submitted on an issue, the failure of a party to propose such finding may be treated by an arbitrator as a waiver of that party's contentions with respect thereto.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15019 to title 27, section 28019 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

Article 5. Special Provisions

§ 28020. Discovery.

(a) Within thirty (30) days after the prehearing conference, the parties shall:

(1) Disclose the names and addresses of witnesses;

(2) Afford an opportunity to the other parties to inspect and copy any relevant documents or exhibits in the possession, custody, or control of the party; and,

(3) Exchange legible copies of all documents or exhibits to be offered in evidence.

(b) Not less than ten (10) days prior to the arbitration hearing, the parties shall provide any additional discovery that may be required as a result of the initial discovery.

(c) Except upon a showing of good cause, a party shall not be permitted to call a witness or introduce a document or exhibit that has not been disclosed, exchanged or made available pursuant to this section.

(d) Three (3) copies of all exhibits to be offered in evidence shall be provided by the parties, one for each arbitrator. The presiding arbitrator shall keep the copies of the exhibits which shall be designated as the exhibits for the official record.

(e) The arbitrators shall have the authority to decide necessary procedural and discovery questions, including defining or limiting the scope of discovery.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New article 5 (sections 15020–15028) and section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 96, No. 10).
3. New article 5 (sections 15020–15028) and section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
4. New article 5 (sections 15020–15028) and section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
5. New article 5 (sections 15020–15028) and section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10–31–96 order, including new subsections (a)–(3), subsection relettering, amendment of newly designated subsection (b) and new subsection (c), transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
7. Change without regulatory effect renumbering title 22, division 2, subdivision 1, chapter 4, article 5 (sections 15020–15028) to title 27, division 4, chapter 2, article 5 (sections 28020–28028) and renumbering title 22, section 15020 to title 27, section 28020 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28021. Subpoenas.

(a) The Director or an arbitrator may issue a subpoena or a subpoena duces tecum, signed and sealed but otherwise blank, to a party requesting it, who shall complete it before service.

(b) If the panel determines that a person is refusing to respond to a subpoena or subpoena duces tecum, or is guilty of misconduct, the arbitration panel may certify the facts to the superior court as provided in Health and Safety Code section 25356.3, subdivision (d).

(c) After receipt of documents pursuant to a subpoena duces tecum, any party may request the panel for a continuance upon showing good cause.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order, including new subsection (c), transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15021 to title 27, section 28021 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28022. Prehearing Conference: Setting Hearing Date.

(a) Within thirty (30) days after the selection of the third arbitrator, the arbitrators shall hold a prehearing conference. The arbitrators shall mail to each party notice of the prehearing conference no later than twenty (20) days in advance of such conference, unless the parties by mutual agreement waive such notice. The prehearing conference may proceed in the absence of any party who, after due notice, fails to appear.

(b) At the prehearing conference the arbitration panel shall consider:

(1) The possibility of agreement disposing of all or any of the issues in dispute;

(2) The simplification or clarification of the issues;

(3) The possibility of obtaining stipulations, admissions, agreements on documents, understanding of matters already on record, use of affidavits and means of avoiding unnecessary proof;

(4) The identity and limitation of the number of witnesses, including expert witnesses, and avoidance of cumulative evidence;

(5) A timetable for completion of discovery, if any, and schedules for submission of written briefs;

(6) A date for commencement of the arbitration hearing and an estimate of time for the hearing;

(7) Such other matters that may aid in the disposition of the arbitration.

(c) The parties shall file and serve prehearing statements addressing the matters delineated in (b) at least five (5) days before the prehearing conference.

(d) The arbitration hearing shall commence within ninety (90) days after the prehearing conference on a date chosen at that conference.

(e) The arbitrators shall issue a prehearing conference order stating, but not limited to, the location and the date for the commencement of the arbitration hearing.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order, including amendment of subsections (b)(6), (d) and (e), transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).

6. Change without regulatory effect renumbering title 22, section 15022 to title 27, section 28022 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28023. Continuances; Adjournment; Dismissal.

(a) Continuances may be permitted in the following circumstances: (1) once a petition for arbitration has been filed with the Director and a determination has been made that arbitration panel will be convened, but prior to a panel being convened, each party may request a maximum of two (2) continuances upon a showing of good cause; and, (2) once the panel has been convened, any party may request a continuance to the arbitration panel upon a showing of good cause. Before granting a continuance for good cause, the Director or the arbitration panel shall consider fairness to all parties. In either circumstance, a continuance of more than sixty (60) days shall not be approved. The basis for any continuance shall be set forth in the record.

(b) The arbitrators may take adjournments on the request of a party or on their own initiative provided that, to the fullest extent practicable, the arbitration hearing shall not be adjourned prior to the conclusion of the evidentiary hearing on the merits.

(c) An arbitration hearing shall be dismissed by the Director on its own motion or on motion of a party, after notice to the parties, if a final arbitration decision is not issued within two (2) years after notice is mailed pursuant to section 28009.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order, including amendment of subsection (a), transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15023 to title 27, section 28023, including subsection (c), filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28024. Motions.

All motions by the parties shall be in writing, unless made on the record during a hearing, and shall clearly state the action requested and the grounds relied upon. The original written motion, together with evidence of service on all other parties and the arbitrators, shall be filed with the Director at least thirty (30) days before the time appointed for the hearing on the motion. The arbitrators shall conduct such proceedings and make such orders deemed necessary to dispose of the issues raised by the motion.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order, including amendment of section, transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15024 to title 27, section 28024 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28025. Evidence.

(a) Oral evidence shall be taken only on oath or affirmation administered by one of the arbitrators.

(b) Each party has the right to: (1) present evidence relevant to the issues including, but not limited to, evidence by way of declaration under oath or affidavit; (2) cross–examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; (3) impeach any witness regardless of which party first called the witness to testify; and, (4) rebut evidence. Any party of record, or person identified with such party may be called and examined as if under cross–examination by any adverse party as provided in Evidence Code section 776.

(c) The hearing need not be conducted according to technical rules relating to evidence and procedure although it may be by stipulation. Any relevant evidence, including hearsay, shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. However, such evidence shall be subject to the exclusions of Evidence Code sections 1151, 1152, and 1154. The rules of privilege shall be effective to the same extent as in civil actions. Irrelevant and unduly repetitious evidence shall be excluded.

(d) Notwithstanding the best evidence rule (Evidence Code section 1500), copies of any document are admissible unless a genuine question is raised as to authenticity.

(e) Failure to furnish sufficient legible copies of exhibits may be grounds for exclusion of the exhibits.

(f) Arbitrators may request briefs on any issue related to the admission or exclusion of evidence.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order, including amendment of subsection (b), transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15025 to title 27, section 28025 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28026. Notice of Officially Noticeable Facts.

The arbitrators may take notice of, and find as true without proof, any matter which may be officially noticed pursuant to Government Code section 11515. Any officially noticed matter must be set forth in the record.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15026 to title 27, section 28026 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28027. Submission on Agreed Facts.

The parties may submit any matter or issue pending before the arbitrators on an agreed statement of facts with such written or oral arguments as the arbitrators may permit.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15027 to title 27, section 28027 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28028. Technical Support Services.

The Secretary shall ensure that all arbitration panels convened pursuant to section 25398.10 of the Health and Safety Code are provided necessary technical support by a team of state employees with experience and expertise appropriate to the issue or issues in dispute, as provided in section 25398.11 of the Health and Safety Code. The team of state employees shall provide a written report setting forth recommendations on all technical issues before the panel.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15028 to title 27, section 28028 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

Article 6. Hearings

§ 28029. Place of Hearings.

The arbitrators may, for the convenience of all parties, order any hearing at any location.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New article 6 (sections 15029–15033) and section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 96, No. 10).
3. New article 6 (sections 15029–15033) and section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
4. New article 6 (sections 15029–15033) and section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
5. New article 6 (sections 15029–15033) and section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
7. Change without regulatory effect renumbering title 22, division 2, subdivision 1, chapter 4, article 6 (sections 15029–15033) to title 27, division 4, chapter 2, article 6 (sections 28029–28033) and renumbering title 22, section 15029 to title 27, section 28029 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28030. Commencement of Hearings.

(a) The hearing shall commence within ninety (90) days after the pre-hearing conference. The arbitration panel may, upon a showing by the parties that settlement is likely, extend the date for the hearing for up to thirty (30) additional days, if further settlement discussions are necessary.

(b) The arbitration panel shall mail to each party notice of the hearing no later than thirty (30) days in advance of the hearing, unless the parties by mutual agreement waive such notice. The arbitrator need not mail a second notice to the parties if the date for the hearing is extended.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).

6. Change without regulatory effect renumbering title 22, section 15030 to title 27, section 28030 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28031. Attendance at Hearings.

(a) The arbitration hearings may be open to the public unless, on the motion of a party, the arbitrators determine that doing so would interfere with the orderly conduct or timely completion of the proceedings. However, all arbitration hearings held pursuant to section 25398.10 of the Health and Safety Code, shall be open to the public.

(b) At the request of any party, the arbitrators may exclude any witness not under examination. A party to the arbitration cannot be excluded under this section.

(c) If a person other than a natural person is a party to the arbitration, an officer or employee designated by its attorney or representative is entitled to be present to assist in the presentation of that party's case. However, that attorney or representative cannot be a witness who is excluded under subsection (b).

(d) The hearing may proceed in the absence of any person who, after due notice, fails to appear or fails to obtain an adjournment. If a party, after due notice, fails to appear or fails to obtain an adjournment, such party will be deemed to have waived the right to be present at the hearing.

(e) After all disputed issues have been heard by the arbitration panel, the arbitration panel may permit the parties to make closing statements, after which the arbitration panel shall declare the hearing closed.

(f) The hearing shall be completed within thirty (30) days, unless the arbitration panel extends the hearing for good cause.

(g) The parties may provide, by written agreement, for the waiver of the hearing.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15031 to title 27, section 28031 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28032. Transcripts.

Each hearing shall be recorded, including all testimony and evidence presented, by any means that is agreeable to all parties. If the parties cannot agree, the hearing may be reported by a certified stenographic reporter or other method selected by the presiding arbitrator. The costs shall be borne by the potentially responsible parties.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15032 to title 27, section 28032 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28033. Record of Proceedings.

(a) Upon request by a party, the Director shall have the complete record of the proceedings, or such parts thereof as are designated, prepared and delivered to such party. The cost of preparing a copy of the transcript, the complete record, or designated parts of either, shall be paid in advance by the requesting party.

(b) The complete record includes the pleadings, all notices and orders issued in the case, all decisions, a transcript or recording of all proceedings, the exhibits admitted, exhibits offered and excluded, the written evidence and other documents in the case.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order, including amendment of subsection (b), transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15033 to title 27, section 28033 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

Article 7. Pleadings

§ 28034. Petition to Convene the Arbitration Panel.

(a) The arbitration panel may be convened by filing with the Director a written petition of any potentially responsible party or parties with liability or aggregate liability as provided in section 25356.3 or by any responsible person, the affected community or the public pursuant to section 25398.10 of the Health and Safety Code.

(1) The petition or petitions to convene the panel shall be filed within fifteen (15) days after the issuance of a final remedial action plan pursuant to section 25356.3 or as provided in section 25398.10, subdivision (b)(1) or prior to the time that the action in dispute becomes final pursuant to section 25398.10(b)(2).

(2) The petition shall be served upon all parties and upon the Director.

(3) If one or more petitions for arbitration have been filed for a single site, the arbitration panel shall consolidate all hearings where reasonably possible.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New article 7 (sections 15034–15040) and section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.

2. Editorial correction of HISTORY 1 (Register 96, No. 10).
3. New article 7 (sections 15034–15040) and section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
4. New article 7 (sections 15034–15040) and section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
5. New article 7 (sections 15034–15040) and section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10–31–96 order, including amendment of subsection (a)(1), transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
7. Change without regulatory effect renumbering title 22, division 2, subdivision 1, chapter 4, article 7 (sections 15034–15040) to title 27, division 4, chapter 2, article 7 (sections 28034–28040) and renumbering title 22, section 15034 to title 27, section 28034 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28035. Petition to Convene the Panel; Contents.

A petition to convene the panel must contain the following:

(a) A petition to convene the panel;

(b) An explanation of the reasons for convening the panel;

(c) Identification of the party or parties petitioning arbitration, their names and addresses for the purposes of service and a recitation of their aggregate liability, if appropriate;

(d) The name and address of any other known potentially responsible party;

(e) An agreement not to contest the fact of liability in the arbitration, if filed pursuant to Health and Safety Code section 25356.3, subdivision (a);

(f) The date of the issuance of the final remedial action plan, if appropriate;

(g) An estimate of the length of time required to present the petitioning party's or parties' case or cases.

(h) An affidavit by the petitioner attesting to how each and every statutory requirement for filing the petition pursuant to Health and Safety Code sections 25356.3 or 25398.10, as applicable, has been met.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order, including new subsection (b), subsection relettering, and new subsection (h), transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect amending subsection (h) filed 5–12–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 20).
7. Change without regulatory effect renumbering title 22, section 15035 to title 27, section 28035 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28036. Objections to the Petition to Convene the Panel; Contents; When Time Estimates of All Parties Are Due.

(a) Within fifteen (15) days after the notice of convening a panel is mailed pursuant to section 28009, parties must:

(1) File any objections to the notice to convene the panel by giving notice to the Director and to all other parties;

(2) Give notice to the Director and to all other parties indicating whether the party intends to submit to arbitration;

(3) Give notice to the Director and to all other parties of the length of time they estimate will be required to present their cases.

(b) The basis for objections include, but are not limited to, the fact that the statutory prerequisites for convening an arbitration are not satisfied.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order, including amendment of subsection designators and new subsection (b), transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15036 to title 27, section 28036, including amendment of subsection (a), filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28037. Decision to Convene the Panel.

(a) The Director shall determine whether to convene the panel and shall notify all parties, including parties identified in the petition pursuant to section 28035(c), of any such decision in accordance with section 28009.

(b) In addition, for a petition filed pursuant to Health and Safety Code section 25398.10, the Director shall notify all responsible persons who have been identified and located, the affected community, the team of state employees referenced in Health and Safety Code section 25398.11, and the public, of the arbitration hearing request and the location and scheduling of the arbitration hearing, in writing, by appropriate means, as soon as reasonably practicable.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order, including amendment of subsection (b), transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15037 to title 27, section 28037, including amendment of subsection (a), filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28038. Intervention and Withdrawal.

(a) No later than thirty (30) days prior to the prehearing conference, any potentially responsible party associated with the site which is subject

to arbitration, may petition to intervene in the arbitration proceeding. Any intervening party shall agree not to contest the fact of liability in the arbitration if the petition is filed pursuant to Health and Safety Code section 25356.3, subdivision (a).

(b) If an arbitration panel has been appointed, a petition to intervene shall be filed with the arbitration panel and a copy shall be served upon all parties. If the arbitration panel has not yet been appointed, a petition to intervene shall be submitted to the Director and a copy shall be served upon all parties.

(c) Any such petition to intervene may be granted only upon the written approval of the arbitration panel or the Director if an arbitration panel has not been appointed. By seeking to intervene, the intervening party consents to be bound by the time limits for the filing of pleadings as the arbitration panel may make to prevent delaying the pre-hearing conference.

(d) Any party may petition to withdraw from the arbitration proceeding within thirty (30) days after receipt of the notice of appointment of the arbitrators. The arbitration panel shall approve such withdrawal, without prejudice to the moving party, and shall assess such administrative fees and expenses against the withdrawing party as the arbitration panel deems appropriate.

(e) For arbitration panels convened pursuant to Health and Safety Code section 25356.3, subdivision (a), the Director shall continue to convene the arbitration panel only if the remaining parties have an aggregate alleged liability in excess of 50 percent of the costs of removal and remedial action.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15038 to title 27, section 28038 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28039. Arbitration Decisions.

(a) For arbitration decisions rendered pursuant to Health and Safety Code section 25356.3, the arbitration panel shall prepare a draft arbitration decision which contains a statement of reasons supporting the apportionment of liability and it shall circulate the decision for at least thirty (30) days for public comment. After review and consideration of any public comment, the arbitration panel shall issue the final arbitration decision as provided in Health and Safety Code section 25356.4(a) and pursuant to the conditions set forth in section 15008.

(b) For arbitration decisions rendered pursuant to Health and Safety Code section 25398.10, the arbitration panel shall provide notice of the arbitration decision in writing, by appropriate means, within five (5) days from the date that the arbitration panel has reached a decision, to the responsible parties, the affected community, the public and any other person or entity who participated in the arbitration proceeding and requested notice of the decision.

(c) The arbitration panel shall render its decision within a reasonable period of time, but in no event later than two (2) years after notice is mailed pursuant to Section 15009.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order, including amendment of subsection (b) and new subsection (c), transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15039 to title 27, section 28039 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

§ 28040. Apportionment of Response Costs.

(a) For arbitration decisions rendered pursuant to Health and Safety Code section 25356.3, the arbitration panel shall apportion liability for the costs of removal and remedial actions among all identifiable potentially responsible parties, regardless of whether those parties are before the panel or have otherwise been released, or are immune from liability.

(b) For arbitration decisions rendered pursuant to Health and Safety Code section 25398.10, the arbitration panel shall apportion all response costs, including costs incurred by the state in connection with any arbitration conducted, among all responsible parties notified of the arbitration proceedings, regardless of whether those persons appear before the arbitration panel.

(c) The costs of conducting the arbitration shall be borne by the potentially responsible parties submitting to the arbitration, except that any filing fees, witness fees, costs of discovery, or any other costs necessarily incurred by one party shall not be shared by any other party.

NOTE: Authority cited: Sections 59012, 25356.10, Health and Safety Code. Stats. 1994, ch. 435 (SB 923), Section 3. Reference: Sections 25356.2–25356.10 and 25398.10–25398.13, Health and Safety Code.

HISTORY

1. New section filed 9–11–95 as an emergency; operative 9–11–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–9–96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–8–96 as an emergency; operative 3–8–96 (Register 96, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–96 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–8–96 as an emergency; operative 7–8–96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–5–96 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 10–31–96 as an emergency; operative 10–31–96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–31–96 order transmitted to OAL 12–4–96 and filed 1–17–97 (Register 97, No. 3).
6. Change without regulatory effect renumbering title 22, section 15040 to title 27, section 28040 filed 6–18–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

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